

ROUTING AND TRANSMITTAL SLIP

Date

4/27/92

TO: (Name, office symbol, room number, building, Agency/Post)

Initials

Date

1. Pat Young - E-4

2.

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	<input checked="" type="checkbox"/> For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

I asked Steve Aroney to fill out the control form for you because I need to set up A/R and post collection by the end of this month. Please send us a ^{copy of} signed consent agreement when it is available.

Shales

DO NOT use this form as a RECORD of approvals, concurrences, disposals, clearances, and similar actions

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Phone No.

5041-102

OPTIONAL FORM 41 (Rev. 7-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.206

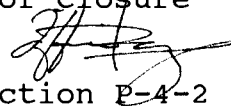


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, Ca. 94105-3901

April 29, 1992

MEMORANDUM

SUBJECT: Collection of Administrative Penalty
Confirmation of Closure

FROM: Tiffanie Pang 
Accounting Section P-4-2

TO: Pat Young
Accounts Receivable Coordinator
E-4

We have received payment in full for the following administrative penalty:

Debtors: StarKist Samoa, Inc.
VCS Samoa Packing Company
Pago Marine, Inc.

Amount of Receivable: \$4,500.00

IFMS Reference Number: BD 0992F&P043

Based on this collection, we are closing this account. However, if stipulated penalties have been incurred as a result of the respondent's failure to comply with any other terms of the final order, please advise us in writing and provide a "modification" control form.

Thank you for your assistance in closing this account. If you have any questions, I can be reached at 4-1729.

Attachments

cc: Steve Armsey, Regional Hearings Clerk, ORC, RC-1

EPA REGION IX
ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

PART I. TO BE COMPLETED BY ORIGINATING OFFICE

(Attach a copy of the final order and transmittal letter to Defendant/Respondent; Route to P-4-2)

A. This was originated by: Pat Young 4.29.92
(Name of contact person) (Date)
in the Pacific Island Programs (& Water) at _____
(Office) (Phone Number)

B. ☐ Non-SF Jud. Order/Consent Decree (USAO COLLECTS) ☐ Administrative Order/Consent Agreement (FMO [P-4-2] COLLECTS PAYMENT)
☐ SF Jud. Order/Consent Decree (FMO [P-4-2] COLLECTS)

C. ☒ This is an original debt ☐ This is a modification

D. Name of Person and/or Company/Municipality making the payment

1. Starkist = 2000
2. VCS = 2000
3. Pago Marine = 500

Total Dollar Amount of Receivable \$ 4,500.00
(If in installments, attach schedule of amounts and respective due dates)

Case Docket Number MPRSA-IX-91-01

Effective Date _____

Superfund Site-Specific Account Number _____

Designated Regional/HQ Program Office _____

PART II. TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE (P-4-2)

The IFMS Accounts Receivable Control Number BD0992F#P043 4/29/92
(Date)

If you have any questions, call: Tiffanie Pang at 744-1729
(Name of Contact) (Phone Number)
in the Office of the Comptroller.

PART III. TO BE ROUTED BY THE LOCAL FINANCIAL MANAGEMENT OFFICE (P-4-2)

JUDICIAL ORDERS: Copies of this form with an attached copy of the front page of the final Judicial Order should be mailed to:

1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice/Rm. 1647D
POBox 7611, Benjamin Franklin Station
Washington, DC 20044
2. Originating Office (ORC)
3. Designated Program Office

ADMINISTRATIVE ORDERS: Copies of this form with an attached copy of the front page of the Administrative Order should be sent to:

1. Originating Office
2. Designated Program Office
3. Regional Hearing Clerk (ORC)

StarKist Samoa, Inc.

An Affiliate of StarKist Seafood Company



P.O. Box 368
Pago Pago, Tutuila Islands
American Samoa 96799
Telephone: 684-644-4231
Facsimile: 684-644-2440

April 6, 1992

U. S. Environmental Protection Agency
Region IX
Regional Hearing Clerk
P. O. Box 360863 M
Pittsburgh, PA 15251

Dear Sirs,

Re Docket No. MPRSA-IX-91-01

As per the "Consent Agreement and final Order on Consent assessing Administrative Civil Penalty," attached is our Certified Check in the amount of \$2,000.00.

It would be appreciated if you would acknowledge receipt of this Check in due course.

Yours truly,

STARKIST SAMOA, INC.

A handwritten signature in black ink, appearing to read "M. Callaghan", written over the printed name.

MAURICE W. CALLAGHAN
General Manager

MWC:tl

Attachment

cc: Regional Hearing Clerk
U. S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

cc: Christopher A. Sproul
Office of Regional Counsel, RC-2-4
U. S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, CA 94105

cc: Ralph A. Ward
Norman Wei
William Adams

04-10-92 0360863 0863121 11 001 17

CR 09R04109212
BD 0992F#P043



VCS - SAMOA PACKING COMPANY		10962	
P. O. BOX 957 PAGO PAGO, AMERICAN SAMOA 96799		101-400 1214	
LQC/SUPPLIER NO. 403	DATE 04/01/92	BANK CODE 1	CHECK 10962
VOID 90 DAYS AFTER DATE		AMOUNT \$ 2,000.00	
PAY EXACTLY *****TWO THOUSAND DOLLARS AND .00 CENTS*****			
TREASURER-UNITED STATES OF AMERICA			
Bank of Hawaii AMERICAN SAMOA BRANCH LUMARAT BLDG., PAGO PAGO TUTUILA, AMERICAN SAMOA 96798			
⑈010962⑈ ⑆121404006⑆ 0034⑈011664⑈ ⑈0000200000⑈			

VCS : SAMOA PACKING COMPANY			CHECK STUB		1	10962	VCS 7001A	
E 01/92		LOCATION VCS SAMOA PACKING CO.		NET AMOUNT \$ 2,000.00		SUPPLIER NAME TREASURER UNITED STATES OF AMERICA		ATT
INVOICE NO.		DATE		AMOUNT		INVOICE DESCRIPTION		
0192		04/01/92		\$ 2,000.00		CONSENT AGREEMENT:SATISFY CIVIL PENALTY LIABILITY		

PAGO MARINE INC

P.O. Box 4058,
Pago Pago, AS 96799.

Phones: (684) 633 1069
(684) 633 5576
Fax: (684) 633 5898

March 20th 1992

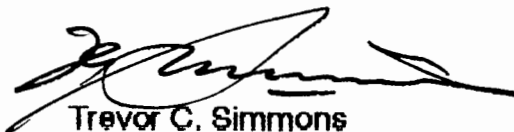
U.S. Environmental Protection Agency,
Region IX
Regional Hearing Clerk,
P.O. Box 360863M
Pittsburgh, PA 15251.

Sir,

re: Docket No. MPRSA-IX-91-01: Consent Agreement and Final Order on Consent Assessing
Administrative Civil Penalty.

Enclosed is our Check for \$500 in regard to the above matter.

Sincerely,



Trevor C. Simmons
Secretary/Treasurer, Pago Marine Inc.

cc: Regional Hearing Clerk,
U.S. Environmental Protection Agency
Region IX
75 Hawthorne St.,
San Francisco, CA 94105.

Christopher A. Sproul
Office of Regional Counsel, RC-2-4
U.S. Environmental Protection
Agency, Region IX
75 Hawthorne St.,
San Francisco, CA 94105

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

Date

Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

Date

Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

Date

Michael P. MacReady
General Manager
VCS Samoa Packing Company

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Date

D.H. Silk
President
Pago Marine, Inc.



FILE
copy

UNITED STATES

✓ Steve Anderson ORC

✓ Chris Sproul ORC

✓ Pat Cotter W-7-1

✓ Pati

✓ Sheila

✓ N. Wei

✓ J. Cox

✓ Tiffaine Pang (EPA)

Pat Y. (~~2 copies~~)

✓ Mike Lee (2 copies of document)

✓ Callaghan

✓ Silk

✓ Macready

14 copies

Michael P. Macready
General Manager
VCS Samoa Packing Company
P.O. Box 957
Pago Pago, American Samoa 96799

Dear Mr. Macready:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from VCS Samoa Packing Company for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the penalty payment of \$2,000 from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

Norman L. Lovelace
Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Jim Cox, Van Camp Seafood Company, Inc.
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

19 MAY 1992

Michael P. Macready
General Manager
VCS Samoa Packing Company
P.O. Box 957
Pago Pago, American Samoa 96799

Dear Mr. Macready:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from VCS Samoa Packing Company for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the penalty payment of \$2,000 from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

A handwritten signature in dark ink, appearing to read "Norman L. Lovelace", is written over the typed name.

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Jim Cox, Van Camp Seafood Company, Inc.
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

19 MAY 1992

D. H. Silk
President
Pago Marine, Inc.
P.O. Box 4058
Pago Pago, American Samoa 96799

Dear Mr. Silk:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from Pago Marine, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the penalty payment of \$500 from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

A handwritten signature in cursive script, which appears to read "Norman L. Lovelace", is written over the typed name.

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Jim Cox, Van Camp Seafood Company, Inc. (w/o enclosure)
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

19 MAY 1992

Maurice W. Callaghan
General Manager
Star-Kist Samoa, Inc.
P.O. Box 368
Pago Pago, American Samoa 96799

Dear Mr. Callaghan:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from Star-Kist Samoa, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the \$2,000 penalty payment from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

A handwritten signature in cursive script, appearing to read "Norman L. Lovelace", is written over the typed name.

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Norman Wei, Star-Kist Seafood Company
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1

1 Christopher A. Sproul
2 Assistant Regional Counsel
3 U.S. Environmental Protection Agency
4 Region IX
5 75 Hawthorne Street
6 San Francisco, California 94105
7 (415) 744-1394
8

9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
10 REGION IX
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15 In the matter of)	Docket No. MPRSA-IX-91-01
16 STARKIST SAMOA, INC., VCS)	
17 SAMOA PACKING COMPANY, and)	CONSENT AGREEMENT AND FINAL
18 PAGO MARINE, INC.	)	ORDER ON CONSENT ASSESSING
19 Respondents.	)	ADMINISTRATIVE CIVIL PENALTY

20
21
22 CONSENT AGREEMENT

23 The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
24 REGION IX ("EPA Region IX" or "EPA") has issued an Administrative
25 Complaint for the Assessment of Civil Penalty In the Matter of
26 Starkist Samoa, Inc., VCS Samoa Packing Company, and Pago Marine,
27 Inc., Docket No. MPRSA-IX-91-01, pursuant to section 105(a) of

1 the Marine Protection, Research and Sanctuaries Act ("MPRSA")
2 alleging that the RESPONDENTS STARKIST SAMOA, INC. ("StarKist"),
3 VCS SAMOA PACKING COMPANY ("VCS"), and PAGO MARINE, INC. ("Pago
4 Marine") have violated the MPRSA. The EPA, StarKist, VCS and
5 Pago Marine having entered into this Consent Agreement,

6 NOW, THEREFORE, EPA, StarKist, VCS, and Pago Marine
7 HEREBY STIPULATE AS FOLLOWS:

8 1. Section 105(a) of the MPRSA authorizes EPA to
9 assess administratively a civil penalty against any person who
10 violates the Act or a permit issued pursuant to the Act of not
11 more than \$50,000 per violation. 33 U.S.C. § 1415(a). The
12 Administrator has delegated this authority to EPA Regional
13 Administrators. 40 C.F.R. § 220.4(b). The Regional
14 Administrator, Region IX has redelegated this authority to the
15 Director of the Water Management Division, Region IX.

16 2. Each day of a continuing violation, as well as the
17 unauthorized dumping from each vessel, constitutes a separate
18 MPRSA offense that may be subject to assessment of a penalty of
19 up to \$50,000. MPRSA § 105(c); 33 U.S.C. § 1415(c). In
20 assessing a penalty for any violations, EPA must take into
21 account the gravity of the violations, any prior violations, and
22 any good faith efforts to comply with the MPRSA after being
23 notified of violations. MPRSA § 105(a), 33 U.S.C. § 1415(a).

24 3. StarKist is a California corporation with its
25 principal place of business located in Pago Pago, American Samoa
26 and as such is a person within the meaning of the MPRSA. 33
27 U.S.C. §§ 1402(e) and 1411(a). StarKist is authorized to dispose
28

1 fish processing wastes into the Pacific Ocean near American Samoa
2 at a designated dump site by MPRSA Permit No. OD 90-01 Special.

3 4. VCS is a corporation with its principal place of
4 business located in Pago Pago, American Samoa and as such is a
5 person within the meaning of the MPRSA. 33 U.S.C. §§ 1402(e) and
6 1411(a). VCS is authorized to dispose fish processing wastes
7 into the Pacific Ocean near American Samoa at a designated dump
8 site by MPRSA Permit No. OD 90-02 Special.

9 5. Pago Marine is an American Samoa corporation with
10 its principal place of business located in Pago Pago, American
11 Samoa and as such is a person within the meaning of the MPRSA.
12 33 U.S.C. §§ 1402(e) and 1411(a). MPRSA Permits Nos. OD 90-01
13 and 90-02 Special ("the Permits") name Pago Marine as the waste
14 transporter of the fish processing wastes that StarKist and VCS
15 dump into the Pacific Ocean pursuant to the Permits. On all
16 disposal trips, Pago Marine disposes of commingled fish
17 processing wastes from StarKist and VCS.

18 6. EPA Region IX brought this action to assess civil
19 penalties for alleged violations committed by StarKist, VCS, and
20 Pago Marine of MPRSA section 101(a), 33 U.S.C. § 1411(a), and the
21 Permits issued pursuant to MPRSA section 102, 33 U.S.C. § 1412.
22 EPA alleged that StarKist, VCS, and Pago Marine violated the
23 MPRSA and the Permits by failing to adhere to Special Conditions
24 4.3 and 4.4 of the Permits.

25 7. Special Conditions 4.3 and 4.4 of the Permits
26 require that on all ocean dumping operations authorized under the
27 Permits, the disposal vessel must proceed to the center of the

1 designated ocean dump site, determine the prevailing current, and
2 then proceed 1.1 nautical miles up current from the center of the
3 disposal site before commencing dumping. The intent of this
4 requirement is to maximize the dispersion of wastes within the
5 designated dump site and to ensure that currents do not carry the
6 wastes beyond the authorized dump site boundaries. EPA has
7 alleged that the respondents failed to conduct dumping operations
8 as required by Special Conditions 4.3 and 4.4 of the Permits on
9 each of 145 separate disposal vessel trips between August 7, 1990
10 and January 31, 1991.

11 8. For their violations alleged in the Complaint,
12 StarKist and VCS shall each pay to the United States a civil
13 penalty of \$2,000. In addition, StarKist and VCS shall each
14 contribute \$6,000 to the Supplemental Environmental Project
15 described in paragraph 10.

16 9. For its violations alleged in the Complaint, Pago
17 Marine shall pay to the United States a civil penalty of \$500 and
18 contribute \$1,000 to the Supplemental Environmental Project
19 described in paragraph 10.

20 10. The Supplemental Environmental Project referred to
21 in paragraphs 8 and 9 shall be the Enhanced Marine Pollution
22 Surveillance Project described in the attached Memorandum of
23 Understanding between EPA and the American Samoa Environmental
24 Quality Commission (Exhibit 1).

25 11. To satisfy their civil penalty liability under
26 this Consent Agreement, StarKist and VCS shall tender money
27 orders or certified checks in the amount of \$2,000, and Pago
28

1 Marine shall tender a money order or certified check in the
2 amount of \$500, made payable to the Treasurer, United States of
3 America. StarKist, VCS and Pago Marine shall tender these money
4 orders or checks via certified mail within thirty (30) days of
5 receiving service of this Consent Agreement and Final Order on
6 Consent to:

7 U.S. Environmental Protection Agency
8 Region IX
9 Regional Hearing Clerk
P.O. Box 360863M
Pittsburgh, PA 15251

10 and mail photocopies via certified mail of the money orders or
11 checks to:

12 Regional Hearing Clerk
13 U.S. Environmental Protection Agency
14 Region IX
75 Hawthorne Street
San Francisco, CA 94105

15 Christopher A. Sproul
16 Office of Regional Counsel, RC-2-4
17 U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
18 San Francisco, CA 94105

19 In accordance with the Debt Collection Act of 1982, interest
20 shall accrue on any unpaid penalties that are due and payable
21 under this paragraph at the interest rate published by the U.S.
22 Treasury. Such interest shall be tendered along with any late
23 penalty payments in the same manner as specified above.

24 12. To satisfy their obligation to contribute to the
25 Supplemental Environmental Project described in paragraph 10,
26 StarKist and VCS shall tender money orders or certified checks in
27 the amount of \$6,000, and Pago Marine shall tender a money order
28

1 or certified check in the amount of \$1,000, made payable to
2 Department of Treasury, American Samoa Government (Oil Spill
3 Trust Fund, Account No. 180). StarKist, VCS and Pago Marine
4 shall tender these money orders or checks along with a cover
5 letter modeled after the attached sample letter (Exhibit 2) via
6 certified mail within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent to:

8 Ace Tago
9 Director
10 Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

11 and mail photocopies via certified mail of these money orders or
12 checks to:

13 Regional Hearing Clerk
14 U.S. Environmental Protection Agency
Region IX
15 75 Hawthorne Street
San Francisco, CA 94105

16 Christopher A. Sproul
17 Office of Regional Counsel, RC-2-4
18 U.S. Environmental Protection Agency
Region IX
19 75 Hawthorne Street
San Francisco, CA 94105

20 13. StarKist, VCS and Pago Marine shall each pay to
21 the United States, upon written demand of EPA, a stipulated
22 penalty of \$150 for any violations of Special Conditions 4.3 and
23 4.4 of the Permits that occur after the execution of this Consent
24 Agreement until the expiration date of the Permits, July 30,
25 1993.

26 14. Notwithstanding the payment of any stipulated
27 penalty pursuant to the preceding paragraph, EPA shall retain any
28

1 and all enforcement authority, including the right to seek civil
2 and/or criminal penalties or fines and civil injunctive relief,
3 that it would otherwise have against StarKist, VCS, or Pago
4 Marine for violations of the MPRSA occurring subsequent to the
5 execution of this Consent Agreement.

6 15. Within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent, StarKist and
8 VCS shall ensure that the Captain(s) of the disposal vessel(s)
9 used on any and all ocean dumping operations authorized by the
10 Permits has received all instruction necessary for navigating the
11 disposal vessel(s) in the manner required by Special Conditions
12 4.3 and 4.4. StarKist and VCS shall submit to EPA a certified
13 statement or statements from the Captain(s) indicating that the
14 Captain(s) have received this instruction and that the Captain(s)
15 understand the requirements of Special Conditions 4.3 and 4.4,
16 are capable of ensuring compliance with these conditions, and
17 will, to the best of their ability, ensure that the conditions
18 are met.

19 16. If new Captain(s) are hired to pilot disposal
20 vessel(s) while the Permits are in effect, StarKist and VCS
21 shall, before these Captain(s) are allowed to pilot disposal
22 vessel(s), provide instruction to these new Captain(s) and secure
23 certified statement(s) from them in the same manner as required
24 in the preceding paragraph for the current Captain(s).

25 17. The responsibility to meet the requirements of
26 paragraphs 15 and 16 shall be the joint obligation of StarKist
27 and VCS. If StarKist and VCS fail to complete the requirements
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1 of paragraphs 15 and 16 by the deadlines established by those
2 paragraphs, then StarKist and VCS shall each pay to the United
3 States, upon written demand from EPA, a stipulated penalty of
4 \$100 per day until the requirements of paragraphs 15 and 16 are
5 met.

6 18. StarKist, VCS, and Pago Marine shall not deduct
7 the civil penalties or Supplemental Environmental Project
8 contributions provided for in paragraphs 8, 9, 11-13 and 17 from
9 their income for purposes of federal, state or local income tax.

10 19. Payment of the civil penalties and contributions
11 to the Supplemental Environmental Project referred to in
12 paragraphs 8, 9, and 11-12, together with adherence to all
13 additional requirements of this Consent Agreement and
14 accompanying Final Order on Consent, shall constitute full
15 satisfaction of any and all MPRSA civil penalty liability for
16 StarKist, VCS, and Pago Marine for the MPRSA violations alleged
17 in the Complaint.

18 20. Nothing in this Consent Agreement shall in any way
19 limit any right that EPA might otherwise have to seek injunctive
20 relief against StarKist, VCS and Pago Marine for violations of
21 any provision of federal law. Except as otherwise provided in
22 paragraph 19 of this Consent Agreement, EPA retains all legal
23 rights and remedies it would otherwise have against StarKist, VCS
24 and Pago Marine for violations of any provision of federal law.

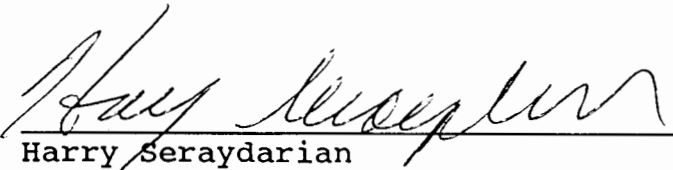
25 21. StarKist, VCS, and Pago Marine neither admit nor
26 deny liability for any of the violations alleged by EPA in the
27 Complaint in this Matter.

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

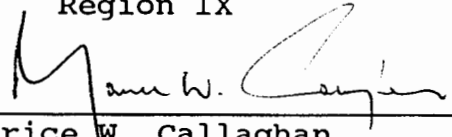
23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

5/19/92
Date


Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

4.8.92
Date


Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

Date

~~Michael P. MacReady~~
~~General Manager~~
~~VCS Samoa Packing Company~~

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

Date

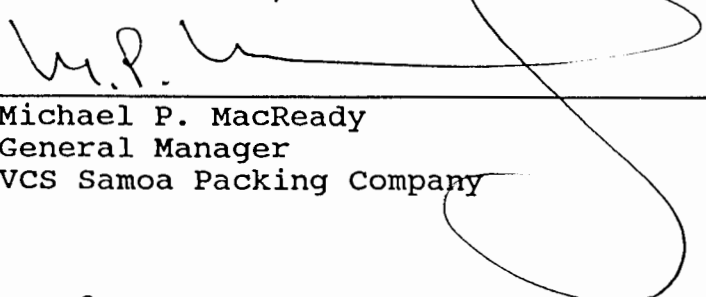
~~Harry Seraydarian~~
~~Director, Water Management Division~~
~~U.S. Environmental Protection Agency,~~
~~Region IX.~~


Date

~~Maurice W. Callaghan~~
~~President and General Manager~~
~~StarKist Samoa, Inc.~~

4-1-92

Date


Michael P. MacReady
General Manager
VCS Samoa Packing Company


With Power of Attorney for:

3-20-92
Date

D.H. Silk
President
Pago Marine, Inc.

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1 FINAL ORDER ON CONSENT

2 EPA Region IX, StarKist, VCS, and Pago Marine having entered
3 into the foregoing Consent Agreement,


4 IT IS HEREBY ORDERED THAT:

5 1. StarKist and VCS shall each pay a civil penalty of
6 \$2,000 and Pago Marine shall pay a civil penalty of \$500 to the
7 Treasurer of the United States of America as specified in the
8 Consent Agreement.

9 2. StarKist, VCS and Pago Marine shall adhere to all
10 further requirements of the Consent Agreement, including the
11 requirements to contribute to a Supplemental Environmental
12 Project, instruct disposal vessel Captain(s) on proper disposal
13 requirements and submit the required certified statements from
14 disposal vessel Captain(s), pay stipulated penalties for permit
15 and/or Consent Agreement violations upon written demand from EPA
16 unless successfully contested as provided for in the Consent
17 Agreement, and refrain from claiming the penalties or
18 contributions required under the Consent Agreement as deductions
19 from income for federal, state, or local income tax purposes.

20 3. This order constitutes full adjudication of the
21 Complaint against StarKist, VCS, and Pago Marine issued by EPA in
22 this Matter. This order shall remain in effect until MPRSA
23 Permits Nos. OD 90-01 and OD 90-02 Special expire on July 30,
24 1993.

25 5-18-92
26 Date

27 
28 Steven W. Anderson
Regional Judicial Officer
U.S. Environmental Protection Agency,
Region IX

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY AND THE ENVIRONMENTAL
QUALITY COMMISSION CONCERNING THE
SAMOA PACKING CO. AND STAR KIST SAMOA INC. SUPPLEMENTAL
ENVIRONMENTAL PROJECT**

I. OBJECTIVE

The U.S. Environmental Protection Agency (USEPA) and Environmental Quality Commission (EQC) seek to implement a Supplemental Environmental Project in lieu of civil fines collected from VCS Samoa Packing Co. and Star Kist Samoa Inc. for violations of Special Ocean Dumping Permits OD 09-01 and OD 90-02 respectively, dated July 31, 1990. The purpose of this Memorandum of Understanding (MOU) is to clarify the roles and responsibilities regarding the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance.

II. USEPA ROLE AND RESPONSIBILITIES

- A. Funding in the amount of \$13,000 will be collected by USEPA for implementation of this project from Pago Marine, Inc., Samoa Packing Co., and Star Kist Samoa, Inc. in lieu of civil fines. This will be deposited in the Oil Spill Trust Fund, American Samoa Government Account No. 180, which is administered by the Executive Secretary, EQC.
- B. USEPA, Region 9, Office of Pacific Island and Native American Programs, will provide guidance and oversight as necessary to EQC for implementation of the Supplemental Environmental Project.
- C. Approval in writing from Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, USEPA Region 9, will be obtained for all expenditures.

III. EQC ROLE AND RESPONSIBILITIES

- A. EQC will be responsible for planning, implementation, and follow up of the Enhanced Marine Pollution Surveillance Project.
- B. EQC will be responsible through the Marine Enforcement Unit and EQC staff for meeting the following functions of the project.
 - 1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.
 - 2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Special Ocean Dumping Permits No. OD 90-01 and OD 90-02.
 4. Provide staff support, equipment and training to effectively carry out the above increased functions.
 5. Complete a pamphlet for all vessels in English, Chinese, Korean, and Samoan outlining pollution and marine laws.
- C. EQC will determine the frequency and schedule necessary to effectively prevent pollution violations. A plan (see Attachment A) to carry out the functions listed in B. above will be submitted to USEPA for approval within 30 days of the effective date of the settlement agreement.
- D. The EQC will provide a report with recommendations to the canneries, its waste transporter, and the USEPA outlining corrections or improvements on the waste disposal operation six months after initiation of the project.
- E. The MEU shall continue its increased inspection and monitoring activities to insure implementation of its recommendations by the canneries and associated vessels. The EQC will document the effectiveness of the project in a report submitted 12 months after initiation of the project detailing the success of the project through frequency of inspections, the number and type of violations cited, the number and type of pollution events, the amount of fines collected, and reports on cannery ocean dumping.

IV. ACCOUNTING PROCEDURES


- A. Funds for this project will be deposited in the Oil Spill Trust Fund Account, American Samoa Government Treasury Department Account No. 180 to be administered by the Executive Secretary, EQC. A separate accounting of the total amount of this project, \$13,000, will be maintained by the EQC Executive Secretary. Disbursements will be made from this fund only for expenses related to this project upon authorization by the EQC Executive Secretary. Expenditures shall be made only with prior approval of Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, EPA Region 9.
- B. The funds deposited in this account shall be utilized only for this project. A quarterly accounting of the funds will be provided to USEPA, Samoa Packing, Inc., Star Kist Samoa, and Pago Marine, Inc. within 30 days after the close of the quarter.
- C. The Executive Secretary of the EQC shall be responsible for providing reports on the fund disbursement and followup.

V. GENERAL PROVISIONS


- A. This MOU does not supplement or replace other understandings or arrangements between USEPA and EQC, or other responsibilities and duties of USEPA or EQC.
- b. This MOU may be modified from time to time by mutual consent and officially endorsed by the Director, Water Management Division of USEPA, Region 9 and Chairman of EQC.
- c. This MOU shall be effective upon signature by the Director, Water Management Division, USEPA, Region 9, and Chairman of EQC and shall remain in effect until terminated.

IN WITNESS WHEREOF, each of the parties hereto has executed this MOU as of the day and year first written below:

WITNESS:

BY: 
HARRY SERAYDARIAN, DIRECTOR
WATER MANAGEMENT DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9

DATE: 5/14/92

BY: 
WILLIAM P. COLEMAN, CHAIRMAN
ENVIRONMENTAL QUALITY COMMISSION

DATE: 11-29-91

ENHANCED MARINE POLLUTION SURVEILLANCE PROJECT PLAN

Introduction

The U.S. Environmental Protection Agency (ASEPA) has collected \$13,000 in fines from Star Kist Samoa, Samoa Packing Co., and Pago Marine for violations of Ocean Dumping Permit conditions. These funds will be utilized to conduct the Enhanced Marine Pollution Surveillance Project (EMPSP). The roles and responsibilities of the USEPA, the Environmental Quality Commission (EQC), and accounting procedures are contained in a Memorandum of Understanding between these agencies. This project will be completed by the Marine Enforcement Division (MED) and the EQC. The following plan outlines the objectives of this project and how they will be met.

Objectives and Activities

1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.

Presently, the MED patrols the areas within Pago Pago Harbor most vulnerable for pollution incidents by vehicle and foot three times daily. This will be increased to twice per shift for a 3 month period depending upon weather and staffing. Search and rescue and emergency response may take priority. Records of observations from inspections and the number of tickets issued will be reviewed after the three month period to determine the effect of increased patrols on compliance. In addition, patrols will be completed at staggered times to prevent anticipation by potential violators.

2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

Patrols via inflatable or a Boston Whaler are made once per day depending upon the staffing. These patrols will be increased to twice per day and at varied times depending upon weather and staffing. Search and rescue and emergency response may take priority. Surveillance after dark will be made a priority. This will continue for a 3 month period after which a review of records will be completed to determine the effectiveness of the surveillance.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Special Ocean Dumping Permit Nos. OD 90-01 and OD 90-02.

Presently the MED monitors ocean dumping of sludge on at least a weekly basis. This will be increased to two to three times weekly or a six month period. Monitoring will include: 1) checking on the correct dump site via land bearings; 2) determining whether the correct dumping pattern is followed; and 3) determining that sludge is only disposed of at the dump site. A follow up evaluation of site reports will be completed at 3 months and again at 6 months to determine the necessity of the increased monitoring and

compliance with permit conditions.

4. Provide staff support, equipment, and training to effectively carry out the increased functions.

The EQC will work with the MED to ensure that adequate staffing and equipment are available to complete the increased patrols, surveillance, and monitoring described above.

5. The EQC in conjunction with the MED and the U.S. Coast Guard will complete a pamphlet which explains pollution and marine laws, penalties, and correct methods for disposal of vessel wastes. This will be translated through assistance of on island tuna vessel agents. Completion date for the pamphlet is 6 months from the start of the project. Distribution of the pamphlet will be provided by the MED, the Port Administration, and ship agents.
6. The EQC will review the outcome of increased monitoring after 3 months and provide recommendations to the MED on the feasibility and effectiveness of continuing the increased monitoring or whether additional monitoring is warranted.

PROJECT SCHEDULE

<u>Task</u>	<u>Responsible Party</u>	<u>Time for Completion</u>
1. 6 vehicle/foot patrols daily of vessels, canneries, and wharf	MED	3 months
2. 2 boat patrols daily	MED	3 months
3. 2 ocean dump site monitoring trips/week	MED	6 months
4. Review effectiveness of increased monitoring and provide recommendations	EQC, MED	3 mos., 6 mos.
5. Provide a report on fish processing waste disposal monitoring	EQC	6 months
6. Project report to USEPA	EQC	12 months
7. Complete multilingual pamphlet	EQC	6 months

Budget for Enhanced Marine Pollution Surveillance

1. Waterproof Binoculars (3 @ approx. \$325 each) \$1,000

The MED presently does not have any marine binoculars. Part of the increased surveillance/monitoring will be observations of possible violations of marine pollution laws which necessitate the ability to monitor these violations from afar, unobserved by the violators. Without binoculars, it would be very difficult, if not impossible, to conduct such surveillance.

2. 35 mm Camera/Telephoto Lens/Case \$1,500

The MED does not have any camera equipment necessary to carryout the additional surveillance duties for this project. The camera and telephoto lens are necessary to document violations of marine pollution laws for use as evidence in substantiating the violations. As in the justification for the binoculars, it is necessary to document these violations from afar, without being observed by the violators. Without this equipment and photo documentation, it will be more difficult to prove that violations occurred.

3. Marine and VHF Radio equipment \$3,500

The MED presently has VHF equipment installed on its boat; however, it needs additional communication equipment for the Zodiacs (large inflatable rafts) which will be utilized for surveillance in Pago Pago Harbor. Additionally, walkie-talkies are needed for each individual officer, as some of the enhanced surveillance and monitoring will be done on foot, along the pier and on the ships. Presently, each officer does not have his own walkie-talkie. Immediate communications are needed for all MED staff in order to coordinate surveillance activities, communicate potential violations and need for additional back-up if necessary.

4. MED Staffing \$6,000

This funding will be utilized for additional MED staffing to support the increased monitoring efforts.

5. Printing Costs for Marine Pollution Pamphlets \$1,000

- A. Development of 4-page pamphlet by ASEPA/MED on marine pollution laws and regulations, i.e.....explain generally which laws will be covered No cost
- B. Translation costs (Samoan, Chinese, Korean) \$ 200
- C. Printing costs (500 pamphlets/language @ \$200/set) \$ 800

NOVEMBER 25, 1991

Ace A. Tago
Director
Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

Dear Mr. Tago:

Enclosed is a check for \$6,000 to support the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance. This check is to be deposited in American Samoa Government Treasury Account No. 180, Oil Spill Trust Fund as agreed to in the Memorandum of Understanding Between the U.S. Environmental Protection Agency and the Environmental Quality Commission concerning the Samoa Packing Co. and Star Kist Samoa, Inc. Supplemental Environmental Project.

Sincerely,

Michael Macready
General Manager
Samoa Packing Co.

cc: Chairman, EQC
Executive Secretary, EQC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, Ca. 94105-3901

19 MAY 1992

Michael P. Macready
General Manager
VCS Samoa Packing Company
P.O. Box 957
Pago Pago, American Samoa 96799

Dear Mr. Macready:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from VCS Samoa Packing Company for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the penalty payment of \$2,000 from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

A handwritten signature in dark ink, which appears to read "Norman L. Lovelace", is written over the typed name.

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Jim Cox, Van Camp Seafood Company, Inc.
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

19 MAY 1992

D. H. Silk
President
Pago Marine, Inc.
P.O. Box 4058
Pago Pago, American Samoa 96799

Dear Mr. Silk:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from Pago Marine, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the penalty payment of \$500 from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

A handwritten signature in cursive script, which appears to read "Norman L. Lovelace", is written over the typed name.

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Jim Cox, Van Camp Seafood Company, Inc. (w/o enclosure)
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, Ca. 94105-3901

19 MAY 1992

Maurice W. Callaghan
General Manager
Star-Kist Samoa, Inc.
P.O. Box 368
Pago Pago, American Samoa 96799

Dear Mr. Callaghan:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from Star-Kist Samoa, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the \$2,000 penalty payment from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

A handwritten signature in cursive script, appearing to read "Norman L. Lovelace", is written over the typed name.

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Norman Wei, Star-Kist Seafood Company
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1

1 Christopher A. Sproul
2 Assistant Regional Counsel
3 U.S. Environmental Protection Agency
4 Region IX
5 75 Hawthorne Street
6 San Francisco, California 94105
7 (415) 744-1394
8

9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
10 REGION IX
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15 In the matter of) Docket No. MPRSA-IX-91-01
16)
17 STARKIST SAMOA, INC., VCS) CONSENT AGREEMENT AND FINAL
18 SAMOA PACKING COMPANY, and) ORDER ON CONSENT ASSESSING
19 PAGO MARINE, INC.) ADMINISTRATIVE CIVIL PENALTY
20 Respondents.)
21

22 CONSENT AGREEMENT

23 The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
24 REGION IX ("EPA Region IX" or "EPA") has issued an Administrative
25 Complaint for the Assessment of Civil Penalty In the Matter of
26 Starkist Samoa, Inc., VCS Samoa Packing Company, and Pago Marine,
27 Inc., Docket No. MPRSA-IX-91-01, pursuant to section 105(a) of
28

1 the Marine Protection, Research and Sanctuaries Act ("MPRSA")
2 alleging that the RESPONDENTS STARKIST SAMOA, INC. ("StarKist"),
3 VCS SAMOA PACKING COMPANY ("VCS"), and PAGO MARINE, INC. ("Pago
4 Marine") have violated the MPRSA. The EPA, StarKist, VCS and
5 Pago Marine having entered into this Consent Agreement,

6 NOW, THEREFORE, EPA, StarKist, VCS, and Pago Marine
7 HEREBY STIPULATE AS FOLLOWS:

8 1. Section 105(a) of the MPRSA authorizes EPA to
9 assess administratively a civil penalty against any person who
10 violates the Act or a permit issued pursuant to the Act of not
11 more than \$50,000 per violation. 33 U.S.C. § 1415(a). The
12 Administrator has delegated this authority to EPA Regional
13 Administrators. 40 C.F.R. § 220.4(b). The Regional
14 Administrator, Region IX has redelegated this authority to the
15 Director of the Water Management Division, Region IX.

16 2. Each day of a continuing violation, as well as the
17 unauthorized dumping from each vessel, constitutes a separate
18 MPRSA offense that may be subject to assessment of a penalty of
19 up to \$50,000. MPRSA § 105(c); 33 U.S.C. § 1415(c). In
20 assessing a penalty for any violations, EPA must take into
21 account the gravity of the violations, any prior violations, and
22 any good faith efforts to comply with the MPRSA after being
23 notified of violations. MPRSA § 105(a), 33 U.S.C. § 1415(a).

24 3. StarKist is a California corporation with its
25 principal place of business located in Pago Pago, American Samoa
26 and as such is a person within the meaning of the MPRSA. 33
27 U.S.C. §§ 1402(e) and 1411(a). StarKist is authorized to dispose

1 fish processing wastes into the Pacific Ocean near American Samoa
2 at a designated dump site by MPRSA Permit No. OD 90-01 Special.

3 4. VCS is a corporation with its principal place of
4 business located in Pago Pago, American Samoa and as such is a
5 person within the meaning of the MPRSA. 33 U.S.C. §§ 1402(e) and
6 1411(a). VCS is authorized to dispose fish processing wastes
7 into the Pacific Ocean near American Samoa at a designated dump
8 site by MPRSA Permit No. OD 90-02 Special.

9 5. Pago Marine is an American Samoa corporation with
10 its principal place of business located in Pago Pago, American
11 Samoa and as such is a person within the meaning of the MPRSA.
12 33 U.S.C. §§ 1402(e) and 1411(a). MPRSA Permits Nos. OD 90-01
13 and 90-02 Special ("the Permits") name Pago Marine as the waste
14 transporter of the fish processing wastes that StarKist and VCS
15 dump into the Pacific Ocean pursuant to the Permits. On all
16 disposal trips, Pago Marine disposes of commingled fish
17 processing wastes from StarKist and VCS.

18 6. EPA Region IX brought this action to assess civil
19 penalties for alleged violations committed by StarKist, VCS, and
20 Pago Marine of MPRSA section 101(a), 33 U.S.C. § 1411(a), and the
21 Permits issued pursuant to MPRSA section 102, 33 U.S.C. § 1412.
22 EPA alleged that StarKist, VCS, and Pago Marine violated the
23 MPRSA and the Permits by failing to adhere to Special Conditions
24 4.3 and 4.4 of the Permits.

25 7. Special Conditions 4.3 and 4.4 of the Permits
26 require that on all ocean dumping operations authorized under the
27 Permits, the disposal vessel must proceed to the center of the
28

1 designated ocean dump site, determine the prevailing current, and
2 then proceed 1.1 nautical miles up current from the center of the
3 disposal site before commencing dumping. The intent of this
4 requirement is to maximize the dispersion of wastes within the
5 designated dump site and to ensure that currents do not carry the
6 wastes beyond the authorized dump site boundaries. EPA has
7 alleged that the respondents failed to conduct dumping operations
8 as required by Special Conditions 4.3 and 4.4 of the Permits on
9 each of 145 separate disposal vessel trips between August 7, 1990
10 and January 31, 1991.

11 8. For their violations alleged in the Complaint,
12 StarKist and VCS shall each pay to the United States a civil
13 penalty of \$2,000. In addition, StarKist and VCS shall each
14 contribute \$6,000 to the Supplemental Environmental Project
15 described in paragraph 10.

16 9. For its violations alleged in the Complaint, Pago
17 Marine shall pay to the United States a civil penalty of \$500 and
18 contribute \$1,000 to the Supplemental Environmental Project
19 described in paragraph 10.

20 10. The Supplemental Environmental Project referred to
21 in paragraphs 8 and 9 shall be the Enhanced Marine Pollution
22 Surveillance Project described in the attached Memorandum of
23 Understanding between EPA and the American Samoa Environmental
24 Quality Commission (Exhibit 1).

25 11. To satisfy their civil penalty liability under
26 this Consent Agreement, StarKist and VCS shall tender money
27 orders or certified checks in the amount of \$2,000, and Pago
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1 Marine shall tender a money order or certified check in the
2 amount of \$500, made payable to the Treasurer, United States of
3 America. StarKist, VCS and Pago Marine shall tender these money
4 orders or checks via certified mail within thirty (30) days of
5 receiving service of this Consent Agreement and Final Order on
6 Consent to:

7 U.S. Environmental Protection Agency
8 Region IX
9 Regional Hearing Clerk
P.O. Box 360863M
Pittsburgh, PA 15251

10 and mail photocopies via certified mail of the money orders or
11 checks to:

12 Regional Hearing Clerk
13 U.S. Environmental Protection Agency
14 Region IX
75 Hawthorne Street
San Francisco, CA 94105

15 Christopher A. Sproul
16 Office of Regional Counsel, RC-2-4
17 U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
18 San Francisco, CA 94105

19 In accordance with the Debt Collection Act of 1982, interest
20 shall accrue on any unpaid penalties that are due and payable
21 under this paragraph at the interest rate published by the U.S.
22 Treasury. Such interest shall be tendered along with any late
23 penalty payments in the same manner as specified above.

24 12. To satisfy their obligation to contribute to the
25 Supplemental Environmental Project described in paragraph 10,
26 StarKist and VCS shall tender money orders or certified checks in
27 the amount of \$6,000, and Pago Marine shall tender a money order
28

1 or certified check in the amount of \$1,000, made payable to
2 Department of Treasury, American Samoa Government (Oil Spill
3 Trust Fund, Account No. 180). StarKist, VCS and Pago Marine
4 shall tender these money orders or checks along with a cover
5 letter modeled after the attached sample letter (Exhibit 2) via
6 certified mail within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent to:

8 Ace Tago
9 Director
10 Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

11 and mail photocopies via certified mail of these money orders or
12 checks to:

13 Regional Hearing Clerk
14 U.S. Environmental Protection Agency
Region IX
15 75 Hawthorne Street
San Francisco, CA 94105

16 Christopher A. Sproul
17 Office of Regional Counsel, RC-2-4
18 U.S. Environmental Protection Agency
Region IX
19 75 Hawthorne Street
San Francisco, CA 94105

20 13. StarKist, VCS and Pago Marine shall each pay to
21 the United States, upon written demand of EPA, a stipulated
22 penalty of \$150 for any violations of Special Conditions 4.3 and
23 4.4 of the Permits that occur after the execution of this Consent
24 Agreement until the expiration date of the Permits, July 30,
25 1993.

26 14. Notwithstanding the payment of any stipulated
27 penalty pursuant to the preceding paragraph, EPA shall retain any
28

1 and all enforcement authority, including the right to seek civil
2 and/or criminal penalties or fines and civil injunctive relief,
3 that it would otherwise have against StarKist, VCS, or Pago
4 Marine for violations of the MPRSA occurring subsequent to the
5 execution of this Consent Agreement.

6 15. Within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent, StarKist and
8 VCS shall ensure that the Captain(s) of the disposal vessel(s)
9 used on any and all ocean dumping operations authorized by the
10 Permits has received all instruction necessary for navigating the
11 disposal vessel(s) in the manner required by Special Conditions
12 4.3 and 4.4. StarKist and VCS shall submit to EPA a certified
13 statement or statements from the Captain(s) indicating that the
14 Captain(s) have received this instruction and that the Captain(s)
15 understand the requirements of Special Conditions 4.3 and 4.4,
16 are capable of ensuring compliance with these conditions, and
17 will, to the best of their ability, ensure that the conditions
18 are met.

19 16. If new Captain(s) are hired to pilot disposal
20 vessel(s) while the Permits are in effect, StarKist and VCS
21 shall, before these Captain(s) are allowed to pilot disposal
22 vessel(s), provide instruction to these new Captain(s) and secure
23 certified statement(s) from them in the same manner as required
24 in the preceding paragraph for the current Captain(s).

25 17. The responsibility to meet the requirements of
26 paragraphs 15 and 16 shall be the joint obligation of StarKist
27 and VCS. If StarKist and VCS fail to complete the requirements
28

1 of paragraphs 15 and 16 by the deadlines established by those
2 paragraphs, then StarKist and VCS shall each pay to the United
3 States, upon written demand from EPA, a stipulated penalty of
4 \$100 per day until the requirements of paragraphs 15 and 16 are
5 met.

6 18. StarKist, VCS, and Pago Marine shall not deduct
7 the civil penalties or Supplemental Environmental Project
8 contributions provided for in paragraphs 8, 9, 11-13 and 17 from
9 their income for purposes of federal, state or local income tax.

10 19. Payment of the civil penalties and contributions
11 to the Supplemental Environmental Project referred to in
12 paragraphs 8, 9, and 11-12, together with adherence to all
13 additional requirements of this Consent Agreement and
14 accompanying Final Order on Consent, shall constitute full
15 satisfaction of any and all MPRSA civil penalty liability for
16 StarKist, VCS, and Pago Marine for the MPRSA violations alleged
17 in the Complaint.

18 20. Nothing in this Consent Agreement shall in any way
19 limit any right that EPA might otherwise have to seek injunctive
20 relief against StarKist, VCS and Pago Marine for violations of
21 any provision of federal law. Except as otherwise provided in
22 paragraph 19 of this Consent Agreement, EPA retains all legal
23 rights and remedies it would otherwise have against StarKist, VCS
24 and Pago Marine for violations of any provision of federal law.

25 21. StarKist, VCS, and Pago Marine neither admit nor
26 deny liability for any of the violations alleged by EPA in the
27 Complaint in this Matter.

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

5/14/92
Date

Harry Seraydarian
Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

4.8.92
Date

Maurice W. Callaghan
Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

Date

~~Michael P. MacReady~~
~~General Manager~~
~~VCS Samoa Packing Company~~

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

Date

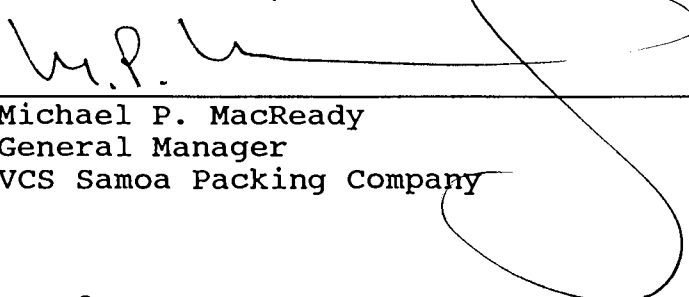
~~Harry Seraydarian~~
~~Director, Water Management Division~~
~~U.S. Environmental Protection Agency,~~
~~Region IX.~~

Date

~~Maurice W. Callaghan~~
~~President and General Manager~~
~~StarKist Samoa, Inc.~~

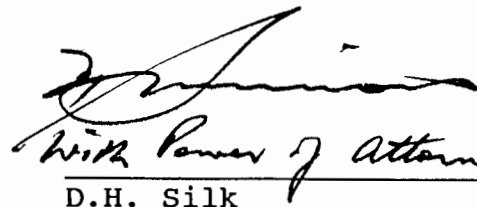
4-1-92

Date


Michael P. MacReady
General Manager
VCS Samoa Packing Company

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3-20-92
Date


With Power of Attorney for:
D.H. Silk
President
Pago Marine, Inc.

1 FINAL ORDER ON CONSENT

2 EPA Region IX, StarKist, VCS, and Pago Marine having entered
3 into the foregoing Consent Agreement,


4 IT IS HEREBY ORDERED THAT:

5 1. StarKist and VCS shall each pay a civil penalty of
6 \$2,000 and Pago Marine shall pay a civil penalty of \$500 to the
7 Treasurer of the United States of America as specified in the
8 Consent Agreement.

9 2. StarKist, VCS and Pago Marine shall adhere to all
10 further requirements of the Consent Agreement, including the
11 requirements to contribute to a Supplemental Environmental
12 Project, instruct disposal vessel Captain(s) on proper disposal
13 requirements and submit the required certified statements from
14 disposal vessel Captain(s), pay stipulated penalties for permit
15 and/or Consent Agreement violations upon written demand from EPA
16 unless successfully contested as provided for in the Consent
17 Agreement, and refrain from claiming the penalties or
18 contributions required under the Consent Agreement as deductions
19 from income for federal, state, or local income tax purposes.

20 3. This order constitutes full adjudication of the
21 Complaint against StarKist, VCS, and Pago Marine issued by EPA in
22 this Matter. This order shall remain in effect until MPRSA
23 Permits Nos. OD 90-01 and OD 90-02 Special expire on July 30,
24 1993.

25 5-18-92
26 Date

27 
28 Steven W. Anderson
Regional Judicial Officer
U.S. Environmental Protection Agency,
Region IX

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY AND THE ENVIRONMENTAL
QUALITY COMMISSION CONCERNING THE
SAMOA PACKING CO. AND STAR KIST SAMOA INC. SUPPLEMENTAL
ENVIRONMENTAL PROJECT**

I. OBJECTIVE

The U.S. Environmental Protection Agency (USEPA) and Environmental Quality Commission (EQC) seek to implement a Supplemental Environmental Project in lieu of civil fines collected from VCS Samoa Packing Co. and Star Kist Samoa Inc. for violations of Special Ocean Dumping Permits OD 09-01 and OD 90-02 respectively, dated July 31, 1990. The purpose of this Memorandum of Understanding (MOU) is to clarify the roles and responsibilities regarding the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance.

II. USEPA ROLE AND RESPONSIBILITIES

- A. Funding in the amount of \$13,000 will be collected by USEPA for implementation of this project from Pago Marine, Inc., Samoa Packing Co., and Star Kist Samoa, Inc. in lieu of civil fines. This will be deposited in the Oil Spill Trust Fund, American Samoa Government Account No. 180, which is administered by the Executive Secretary, EQC.
- B. USEPA, Region 9, Office of Pacific Island and Native American Programs, will provide guidance and oversight as necessary to EQC for implementation of the Supplemental Environmental Project.
- C. Approval in writing from Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, USEPA Region 9, will be obtained for all expenditures.

III. EQC ROLE AND RESPONSIBILITIES

- A. EQC will be responsible for planning, implementation, and follow up of the Enhanced Marine Pollution Surveillance Project.
- B. EQC will be responsible through the Marine Enforcement Unit and EQC staff for meeting the following functions of the project.
 - 1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.
 - 2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Special Ocean Dumping Permits No. OD 90-01 and OD 90-02.
 4. Provide staff support, equipment and training to effectively carry out the above increased functions.
 5. Complete a pamphlet for all vessels in English, Chinese, Korean, and Samoan outlining pollution and marine laws.
- C. EQC will determine the frequency and schedule necessary to effectively prevent pollution violations. A plan (see Attachment A) to carry out the functions listed in B. above will be submitted to USEPA for approval within 30 days of the effective date of the settlement agreement.
- D. The EQC will provide a report with recommendations to the canneries, its waste transporter, and the USEPA outlining corrections or improvements on the waste disposal operation six months after initiation of the project.
- E. The MEU shall continue its increased inspection and monitoring activities to insure implementation of its recommendations by the canneries and associated vessels. The EQC will document the effectiveness of the project in a report submitted 12 months after initiation of the project detailing the success of the project through frequency of inspections, the number and type of violations cited, the number and type of pollution events, the amount of fines collected, and reports on cannery ocean dumping.

IV. ACCOUNTING PROCEDURES


- A. Funds for this project will be deposited in the Oil Spill Trust Fund Account, American Samoa Government Treasury Department Account No. 180 to be administered by the Executive Secretary, EQC. A separate accounting of the total amount of this project, \$13,000, will be maintained by the EQC Executive Secretary. Disbursements will be made from this fund only for expenses related to this project upon authorization by the EQC Executive Secretary. Expenditures shall be made only with prior approval of Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, EPA Region 9.
- B. The funds deposited in this account shall be utilized only for this project. A quarterly accounting of the funds will be provided to USEPA, Samoa Packing, Inc., Star Kist Samoa, and Pago Marine, Inc. within 30 days after the close of the quarter.
- C. The Executive Secretary of the EQC shall be responsible for providing reports on the fund disbursement and followup.

V. GENERAL PROVISIONS


- A. This MOU does not supplement or replace other understandings or arrangements between USEPA and EQC, or other responsibilities and duties of USEPA or EQC.
- b. This MOU may be modified from time to time by mutual consent and officially endorsed by the Director, Water Management Division of USEPA, Region 9 and Chairman of EQC.
- c. This MOU shall be effective upon signature by the Director, Water Management Division, USEPA, Region 9, and Chairman of EQC and shall remain in effect until terminated.

IN WITNESS WHEREOF, each of the parties hereto has executed this MOU as of the day and year first written below:

WITNESS:

BY: 
HARRY SERAYDARIAN, DIRECTOR
WATER MANAGEMENT DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9

DATE: 5/14/92

BY: 
WILLIAM P. COLEMAN, CHAIRMAN
ENVIRONMENTAL QUALITY COMMISSION

DATE: 11-29-91

ENHANCED MARINE POLLUTION SURVEILLANCE PROJECT PLAN

Introduction

The U.S. Environmental Protection Agency (ASEPA) has collected \$13,000 in fines from Star Kist Samoa, Samoa Packing Co., and Pago Marine for violations of Ocean Dumping Permit conditions. These funds will be utilized to conduct the Enhanced Marine Pollution Surveillance Project (EMPSP). The roles and responsibilities of the USEPA, the Environmental Quality Commission (EQC), and accounting procedures are contained in a Memorandum of Understanding between these agencies. This project will be completed by the Marine Enforcement Division (MED) and the EQC. The following plan outlines the objectives of this project and how they will be met.

Objectives and Activities

1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.

Presently, the MED patrols the areas within Pago Pago Harbor most vulnerable for pollution incidents by vehicle and foot three times daily. This will be increased to twice per shift for a 3 month period depending upon weather and staffing. Search and rescue and emergency response may take priority. Records of observations from inspections and the number of tickets issued will be reviewed after the three month period to determine the effect of increased patrols on compliance. In addition, patrols will be completed at staggered times to prevent anticipation by potential violators.

2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

Patrols via inflatable or a Boston Whaler are made once per day depending upon the staffing. These patrols will be increased to twice per day and at varied times depending upon weather and staffing. Search and rescue and emergency response may take priority. Surveillance after dark will be made a priority. This will continue for a 3 month period after which a review of records will be completed to determine the effectiveness of the surveillance.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Special Ocean Dumping Permit Nos. OD 90-01 and OD 90-02.

Presently the MED monitors ocean dumping of sludge on at least a weekly basis. This will be increased to two to three times weekly or a six month period. Monitoring will include: 1) checking on the correct dump site via land bearings; 2) determining whether the correct dumping pattern is followed; and 3) determining that sludge is only disposed of at the dump site. A follow up evaluation of site reports will be completed at 3 months and again at 6 months to determine the necessity of the increased monitoring and

compliance with permit conditions.

4. Provide staff support, equipment, and training to effectively carry out the increased functions.

The EQC will work with the MED to ensure that adequate staffing and equipment are available to complete the increased patrols, surveillance, and monitoring described above.

5. The EQC in conjunction with the MED and the U.S. Coast Guard will complete a pamphlet which explains pollution and marine laws, penalties, and correct methods for disposal of vessel wastes. This will be translated through assistance of on island tuna vessel agents. Completion date for the pamphlet is 6 months from the start of the project. Distribution of the pamphlet will be provided by the MED, the Port Administration, and ship agents.
6. The EQC will review the outcome of increased monitoring after 3 months and provide recommendations to the MED on the feasibility and effectiveness of continuing the increased monitoring or whether additional monitoring is warranted.

PROJECT SCHEDULE

<u>Task</u>	<u>Responsible Party</u>	<u>Time for Completion</u>
1. 6 vehicle/foot patrols daily of vessels, canneries, and wharf	MED	3 months
2. 2 boat patrols daily	MED	3 months
3. 2 ocean dump site monitoring trips/week	MED	6 months
4. Review effectiveness of increased monitoring and provide recommendations	EQC, MED	3 mos., 6 mos.
5. Provide a report on fish processing waste disposal monitoring	EQC	6 months
6. Project report to USEPA	EQC	12 months
7. Complete multilingual pamphlet	EQC	6 months

Budget for Enhanced Marine Pollution Surveillance

1. Waterproof Binoculars (3 @ approx. \$325 each) \$1,000

The MED presently does not have any marine binoculars. Part of the increased surveillance/monitoring will be observations of possible violations of marine pollution laws which necessitate the ability to monitor these violations from afar, unobserved by the violators. Without binoculars, it would be very difficult, if not impossible, to conduct such surveillance.

2. 35 mm Camera/Telephoto Lens/Case \$1,500

The MED does not have any camera equipment necessary to carryout the additional surveillance duties for this project. The camera and telephoto lens are necessary to document violations of marine pollution laws for use as evidence in substantiating the violations. As in the justification for the binoculars, it is necessary to document these violations from afar, without being observed by the violators. Without this equipment and photo documentation, it will be more difficult to prove that violations occurred.

3. Marine and VHF Radio equipment \$3,500

The MED presently has VHF equipment installed on its boat; however, it needs additional communication equipment for the Zodiacs (large inflatable rafts) which will be utilized for surveillance in Pago Pago Harbor. Additionally, walkie-talkies are needed for each individual officer, as some of the enhanced surveillance and monitoring will be done on foot, along the pier and on the ships. Presently, each officer does not have his own walkie-talkie. Immediate communications are needed for all MED staff in order to coordinate surveillance activities, communicate potential violations and need for additional back-up if necessary.

4. MED Staffing \$6,000

This funding will be utilized for additional MED staffing to support the increased monitoring efforts.

5. Printing Costs for Marine Pollution Pamphlets \$1,000

- A. Development of 4-page pamphlet by ASEPA/MED on marine pollution laws and regulations, i.e.....explain generally which laws will be covered No cost
- B. Translation costs (Samoan, Chinese, Korean) \$ 200
- C. Printing costs (500 pamphlets/language @ \$200/set) \$ 800

NOVEMBER 25, 1991

Ace A. Tago
Director
Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

Dear Mr. Tago:

Enclosed is a check for \$6,000 to support the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance. This check is to be deposited in American Samoa Government Treasury Account No. 180, Oil Spill Trust Fund as agreed to in the Memorandum of Understanding Between the U.S. Environmental Protection Agency and the Environmental Quality Commission concerning the Samoa Packing Co. and Star Kist Samoa, Inc. Supplemental Environmental Project.

Sincerely,

Michael Macready
General Manager
Samoa Packing Co.

cc: Chairman, EQC
Executive Secretary, EQC

10 MAY 1992

D. H. Silk
President
Pago Marine, Inc.
P.O. Box 4058
Pago Pago, American Samoa 96799

Dear Mr. Silk:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from Pago Marine, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the penalty payment of \$500 from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Jim Cox, Van Camp Seafood Company, Inc. (w/o enclosure)
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1

SYMBOL	E-4	E-4				
SURNAME	Young	Sproul				
DATE	5/14/92	5/14/92				
U.S. EPA CONCURRENCES			OFFICIAL FILE COPY			

19 MAY 1992

Maurice W. Callaghan
General Manager
Star-Kist Samoa, Inc.
P.O. Box 368
Pago Pago, American Samoa 96799

Dear Mr. Callaghan:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from Star-Kist Samoa, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the \$2,000 penalty payment from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Norman Wei, Star-Kist Seafood Company
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1

SYMBOL	E-4					
SURNAME	Norman L. Lovelace					
DATE	5/14/92					
U.S. EPA CONCURRENCES						

OFFICIAL FILE COPY

19 MAY 1992

Michael P. Macready
General Manager
VCS Samoa Packing Company
P.O. Box 957
Pago Pago, American Samoa 96799

Dear Mr. Macready:

Enclosed please find a copy of the fully executed consent agreement and final order on consent assessing civil penalty from VCS Samoa Packing Company for violation of the Marine Protection, Research and Sanctuaries Act. This copy is for your files. We have received the penalty payment of \$2,000 from your company as ordered by this agreement.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

Enclosure

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Jim Cox, Van Camp Seafood Company, Inc.
Christopher Sproul, EPA ORC
Patrick Cotter, W-7-1

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SURNAME	myang	Norman L. Lovelace				
DATE	5/14/92	5/14/92				
U.S. EPA CONCURRENCES			OFFICIAL FILE COPY			

1 Christopher A. Sproul
2 Assistant Regional Counsel
3 U.S. Environmental Protection Agency
4 Region IX
5 75 Hawthorne Street
6 San Francisco, California 94105
7 (415) 744-1394

*original
signature
documents*

9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

10 REGION IX

15 In the matter of) Docket No. MPRSA-IX-91-01
16)
17 STARKIST SAMOA, INC., VCS) CONSENT AGREEMENT AND FINAL
18 SAMOA PACKING COMPANY, and) ORDER ON CONSENT ASSESSING
19 PAGO MARINE, INC.) ADMINISTRATIVE CIVIL PENALTY
20 Respondents.)
21)

22 CONSENT AGREEMENT

23 The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
24 REGION IX ("EPA Region IX" or "EPA") has issued an Administrative
25 Complaint for the Assessment of Civil Penalty In the Matter of
26 Starkist Samoa, Inc., VCS Samoa Packing Company, and Pago Marine,
27 Inc., Docket No. MPRSA-IX-91-01, pursuant to section 105(a) of

1 the Marine Protection, Research and Sanctuaries Act ("MPRSA")
2 alleging that the RESPONDENTS STARKIST SAMOA, INC. ("StarKist"),
3 VCS SAMOA PACKING COMPANY ("VCS"), and PAGO MARINE, INC. ("Pago
4 Marine") have violated the MPRSA. The EPA, StarKist, VCS and
5 Pago Marine having entered into this Consent Agreement,

6 NOW, THEREFORE, EPA, StarKist, VCS, and Pago Marine
7 HEREBY STIPULATE AS FOLLOWS:

8 1. Section 105(a) of the MPRSA authorizes EPA to
9 assess administratively a civil penalty against any person who
10 violates the Act or a permit issued pursuant to the Act of not
11 more than \$50,000 per violation. 33 U.S.C. § 1415(a). The
12 Administrator has delegated this authority to EPA Regional
13 Administrators. 40 C.F.R. § 220.4(b). The Regional
14 Administrator, Region IX has redelegated this authority to the
15 Director of the Water Management Division, Region IX.

16 2. Each day of a continuing violation, as well as the
17 unauthorized dumping from each vessel, constitutes a separate
18 MPRSA offense that may be subject to assessment of a penalty of
19 up to \$50,000. MPRSA § 105(c); 33 U.S.C. § 1415(c). In
20 assessing a penalty for any violations, EPA must take into
21 account the gravity of the violations, any prior violations, and
22 any good faith efforts to comply with the MPRSA after being
23 notified of violations. MPRSA § 105(a), 33 U.S.C. § 1415(a).

24 3. StarKist is a California corporation with its
25 principal place of business located in Pago Pago, American Samoa
26 and as such is a person within the meaning of the MPRSA. 33
27 U.S.C. §§ 1402(e) and 1411(a). StarKist is authorized to dispose

1 fish processing wastes into the Pacific Ocean near American Samoa
2 at a designated dump site by MPRSA Permit No. OD 90-01 Special.

3 4. VCS is a corporation with its principal place of
4 business located in Pago Pago, American Samoa and as such is a
5 person within the meaning of the MPRSA. 33 U.S.C. §§ 1402(e) and
6 1411(a). VCS is authorized to dispose fish processing wastes
7 into the Pacific Ocean near American Samoa at a designated dump
8 site by MPRSA Permit No. OD 90-02 Special.

9 5. Pago Marine is an American Samoa corporation with
10 its principal place of business located in Pago Pago, American
11 Samoa and as such is a person within the meaning of the MPRSA.
12 33 U.S.C. §§ 1402(e) and 1411(a). MPRSA Permits Nos. OD 90-01
13 and 90-02 Special ("the Permits") name Pago Marine as the waste
14 transporter of the fish processing wastes that StarKist and VCS
15 dump into the Pacific Ocean pursuant to the Permits. On all
16 disposal trips, Pago Marine disposes of commingled fish
17 processing wastes from StarKist and VCS.

18 6. EPA Region IX brought this action to assess civil
19 penalties for alleged violations committed by StarKist, VCS, and
20 Pago Marine of MPRSA section 101(a), 33 U.S.C. § 1411(a), and the
21 Permits issued pursuant to MPRSA section 102, 33 U.S.C. § 1412.
22 EPA alleged that StarKist, VCS, and Pago Marine violated the
23 MPRSA and the Permits by failing to adhere to Special Conditions
24 4.3 and 4.4 of the Permits.

25 7. Special Conditions 4.3 and 4.4 of the Permits
26 require that on all ocean dumping operations authorized under the
27 Permits, the disposal vessel must proceed to the center of the
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1 designated ocean dump site, determine the prevailing current, and
2 then proceed 1.1 nautical miles up current from the center of the
3 disposal site before commencing dumping. The intent of this
4 requirement is to maximize the dispersion of wastes within the
5 designated dump site and to ensure that currents do not carry the
6 wastes beyond the authorized dump site boundaries. EPA has
7 alleged that the respondents failed to conduct dumping operations
8 as required by Special Conditions 4.3 and 4.4 of the Permits on
9 each of 145 separate disposal vessel trips between August 7, 1990
10 and January 31, 1991.

11 8. For their violations alleged in the Complaint,
12 StarKist and VCS shall each pay to the United States a civil
13 penalty of \$2,000. In addition, StarKist and VCS shall each
14 contribute \$6,000 to the Supplemental Environmental Project
15 described in paragraph 10.

16 9. For its violations alleged in the Complaint, Pago
17 Marine shall pay to the United States a civil penalty of \$500 and
18 contribute \$1,000 to the Supplemental Environmental Project
19 described in paragraph 10.

20 10. The Supplemental Environmental Project referred to
21 in paragraphs 8 and 9 shall be the Enhanced Marine Pollution
22 Surveillance Project described in the attached Memorandum of
23 Understanding between EPA and the American Samoa Environmental
24 Quality Commission (Exhibit 1).

25 11. To satisfy their civil penalty liability under
26 this Consent Agreement, StarKist and VCS shall tender money
27 orders or certified checks in the amount of \$2,000, and Pago
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1 Marine shall tender a money order or certified check in the
2 amount of \$500, made payable to the Treasurer, United States of
3 America. StarKist, VCS and Pago Marine shall tender these money
4 orders or checks via certified mail within thirty (30) days of
5 receiving service of this Consent Agreement and Final Order on
6 Consent to:

7 U.S. Environmental Protection Agency
8 Region IX
9 Regional Hearing Clerk
P.O. Box 360863M
Pittsburgh, PA 15251

10 and mail photocopies via certified mail of the money orders or
11 checks to:

12 Regional Hearing Clerk
13 U.S. Environmental Protection Agency
14 Region IX
75 Hawthorne Street
San Francisco, CA 94105

15 Christopher A. Sproul
16 Office of Regional Counsel, RC-2-4
17 U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
18 San Francisco, CA 94105

19 In accordance with the Debt Collection Act of 1982, interest
20 shall accrue on any unpaid penalties that are due and payable
21 under this paragraph at the interest rate published by the U.S.
22 Treasury. Such interest shall be tendered along with any late
23 penalty payments in the same manner as specified above.

24 12. To satisfy their obligation to contribute to the
25 Supplemental Environmental Project described in paragraph 10,
26 StarKist and VCS shall tender money orders or certified checks in
27 the amount of \$6,000, and Pago Marine shall tender a money order

1 or certified check in the amount of \$1,000, made payable to
2 Department of Treasury, American Samoa Government (Oil Spill
3 Trust Fund, Account No. 180). StarKist, VCS and Pago Marine
4 shall tender these money orders or checks along with a cover
5 letter modeled after the attached sample letter (Exhibit 2) via
6 certified mail within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent to:

8 Ace Tago
9 Director
10 Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

11 and mail photocopies via certified mail of these money orders or
12 checks to:

13 Regional Hearing Clerk
14 U.S. Environmental Protection Agency
Region IX
15 75 Hawthorne Street
San Francisco, CA 94105

16 Christopher A. Sproul
17 Office of Regional Counsel, RC-2-4
18 U.S. Environmental Protection Agency
Region IX
19 75 Hawthorne Street
San Francisco, CA 94105

20 13. StarKist, VCS and Pago Marine shall each pay to
21 the United States, upon written demand of EPA, a stipulated
22 penalty of \$150 for any violations of Special Conditions 4.3 and
23 4.4 of the Permits that occur after the execution of this Consent
24 Agreement until the expiration date of the Permits, July 30,
25 1993.

26 14. Notwithstanding the payment of any stipulated
27 penalty pursuant to the preceding paragraph, EPA shall retain any
28

1 and all enforcement authority, including the right to seek civil
2 and/or criminal penalties or fines and civil injunctive relief,
3 that it would otherwise have against StarKist, VCS, or Pago
4 Marine for violations of the MPRSA occurring subsequent to the
5 execution of this Consent Agreement.

6 15. Within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent, StarKist and
8 VCS shall ensure that the Captain(s) of the disposal vessel(s)
9 used on any and all ocean dumping operations authorized by the
10 Permits has received all instruction necessary for navigating the
11 disposal vessel(s) in the manner required by Special Conditions
12 4.3 and 4.4. StarKist and VCS shall submit to EPA a certified
13 statement or statements from the Captain(s) indicating that the
14 Captain(s) have received this instruction and that the Captain(s)
15 understand the requirements of Special Conditions 4.3 and 4.4,
16 are capable of ensuring compliance with these conditions, and
17 will, to the best of their ability, ensure that the conditions
18 are met.

19 16. If new Captain(s) are hired to pilot disposal
20 vessel(s) while the Permits are in effect, StarKist and VCS
21 shall, before these Captain(s) are allowed to pilot disposal
22 vessel(s), provide instruction to these new Captain(s) and secure
23 certified statement(s) from them in the same manner as required
24 in the preceding paragraph for the current Captain(s).

25 17. The responsibility to meet the requirements of
26 paragraphs 15 and 16 shall be the joint obligation of StarKist
27 and VCS. If StarKist and VCS fail to complete the requirements
28

1 of paragraphs 15 and 16 by the deadlines established by those
2 paragraphs, then StarKist and VCS shall each pay to the United
3 States, upon written demand from EPA, a stipulated penalty of
4 \$100 per day until the requirements of paragraphs 15 and 16 are
5 met.

6 18. StarKist, VCS, and Pago Marine shall not deduct
7 the civil penalties or Supplemental Environmental Project
8 contributions provided for in paragraphs 8, 9, 11-13 and 17 from
9 their income for purposes of federal, state or local income tax.

10 19. Payment of the civil penalties and contributions
11 to the Supplemental Environmental Project referred to in
12 paragraphs 8, 9, and 11-12, together with adherence to all
13 additional requirements of this Consent Agreement and
14 accompanying Final Order on Consent, shall constitute full
15 satisfaction of any and all MPRSA civil penalty liability for
16 StarKist, VCS, and Pago Marine for the MPRSA violations alleged
17 in the Complaint.

18 20. Nothing in this Consent Agreement shall in any way
19 limit any right that EPA might otherwise have to seek injunctive
20 relief against StarKist, VCS and Pago Marine for violations of
21 any provision of federal law. Except as otherwise provided in
22 paragraph 19 of this Consent Agreement, EPA retains all legal
23 rights and remedies it would otherwise have against StarKist, VCS
24 and Pago Marine for violations of any provision of federal law.

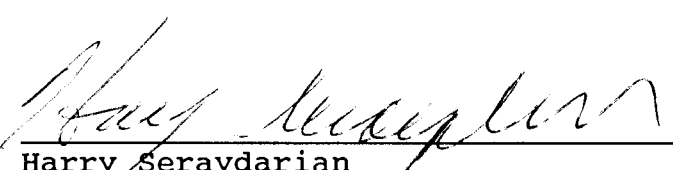
25 21. StarKist, VCS, and Pago Marine neither admit nor
26 deny liability for any of the violations alleged by EPA in the
27 Complaint in this Matter.

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

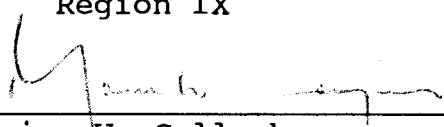
23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

5/14/92
Date


Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

↓ 3 92
Date


Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

Date

~~Michael P. MacReady~~
~~General Manager~~
~~VCS Samoa Packing Company~~

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

Date

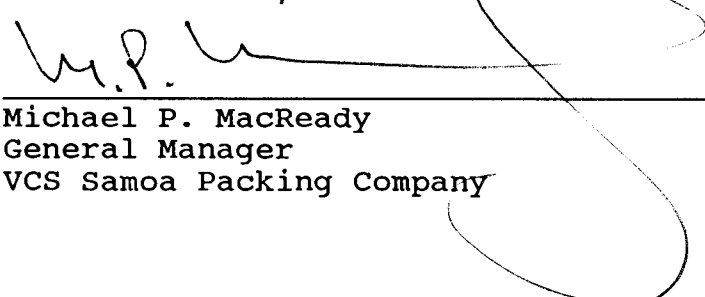
~~Harry Soraydarian~~
~~Director, Water Management Division~~
~~U.S. Environmental Protection Agency,~~
~~Region IX~~

Date


~~Maurice W. Callaghan~~
~~President and General Manager~~
~~StarKist Samoa, Inc.~~

4-1-92

Date


Michael P. MacReady
General Manager
VCS Samoa Packing Company

1 3-20-92
2 Date


3 With Power of Attorney for:
4 D.H. Silk
5 President
6 Pago Marine, Inc.
7
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1 FINAL ORDER ON CONSENT

2 EPA Region IX, StarKist, VCS, and Pago Marine having entered
3 into the foregoing Consent Agreement,

4 IT IS HEREBY ORDERED THAT:

5 1. StarKist and VCS shall each pay a civil penalty of
6 \$2,000 and Pago Marine shall pay a civil penalty of \$500 to the
7 Treasurer of the United States of America as specified in the
8 Consent Agreement.

9 2. StarKist, VCS and Pago Marine shall adhere to all
10 further requirements of the Consent Agreement, including the
11 requirements to contribute to a Supplemental Environmental
12 Project, instruct disposal vessel Captain(s) on proper disposal
13 requirements and submit the required certified statements from
14 disposal vessel Captain(s), pay stipulated penalties for permit
15 and/or Consent Agreement violations upon written demand from EPA
16 unless successfully contested as provided for in the Consent
17 Agreement, and refrain from claiming the penalties or
18 contributions required under the Consent Agreement as deductions
19 from income for federal, state, or local income tax purposes.

20 3. This order constitutes full adjudication of the
21 Complaint against StarKist, VCS, and Pago Marine issued by EPA in
22 this Matter. This order shall remain in effect until MPRSA
23 Permits Nos. OD 90-01 and OD 90-02 Special expire on July 30,
24 1993.

25 5-18-92
26 Date

27 Steven W. Anderson
28 Steven W. Anderson
Regional Judicial Officer
U.S. Environmental Protection Agency,
Region IX

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
U.S. ENVIRONMENTAL PROTECTION AGENCY AND THE ENVIRONMENTAL
QUALITY COMMISSION CONCERNING THE
SAMOA PACKING CO. AND STAR KIST SAMOA INC. SUPPLEMENTAL
ENVIRONMENTAL PROJECT**

I. OBJECTIVE

The U.S. Environmental Protection Agency (USEPA) and Environmental Quality Commission (EQC) seek to implement a Supplemental Environmental Project in lieu of civil fines collected from VCS Samoa Packing Co. and Star Kist Samoa Inc. for violations of Special Ocean Dumping Permits OD 09-01 and OD 90-02 respectively, dated July 31, 1990. The purpose of this Memorandum of Understanding (MOU) is to clarify the roles and responsibilities regarding the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance.

II. USEPA ROLE AND RESPONSIBILITIES

- A. Funding in the amount of \$13,000 will be collected by USEPA for implementation of this project from Pago Marine, Inc., Samoa Packing Co., and Star Kist Samoa, Inc. in lieu of civil fines. This will be deposited in the Oil Spill Trust Fund, American Samoa Government Account No. 180, which is administered by the Executive Secretary, EQC.
- B. USEPA, Region 9, Office of Pacific Island and Native American Programs, will provide guidance and oversight as necessary to EQC for implementation of the Supplemental Environmental Project.
- C. Approval in writing from Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, USEPA Region 9, will be obtained for all expenditures.

III. EQC ROLE AND RESPONSIBILITIES

- A. EQC will be responsible for planning, implementation, and follow up of the Enhanced Marine Pollution Surveillance Project.
- B. EQC will be responsible through the Marine Enforcement Unit and EQC staff for meeting the following functions of the project.
 - 1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.
 - 2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Special Ocean Dumping Permits No. OD 90-01 and OD 90-02.
 4. Provide staff support, equipment and training to effectively carry out the above increased functions.
 5. Complete a pamphlet for all vessels in English, Chinese, Korean, and Samoan outlining pollution and marine laws.
- C. EQC will determine the frequency and schedule necessary to effectively prevent pollution violations. A plan (see Attachment A) to carry out the functions listed in B. above will be submitted to USEPA for approval within 30 days of the effective date of the settlement agreement.
- D. The EQC will provide a report with recommendations to the canneries, its waste transporter, and the USEPA outlining corrections or improvements on the waste disposal operation six months after initiation of the project.
- E. The MEU shall continue its increased inspection and monitoring activities to insure implementation of its recommendations by the canneries and associated vessels. The EQC will document the effectiveness of the project in a report submitted 12 months after initiation of the project detailing the success of the project through frequency of inspections, the number and type of violations cited, the number and type of pollution events, the amount of fines collected, and reports on cannery ocean dumping.

IV. ACCOUNTING PROCEDURES

- A. Funds for this project will be deposited in the Oil Spill Trust Fund Account, American Samoa Government Treasury Department Account No. 180 to be administered by the Executive Secretary, EQC. A separate accounting of the total amount of this project, \$13,000, will be maintained by the EQC Executive Secretary. Disbursements will be made from this fund only for expenses related to this project upon authorization by the EQC Executive Secretary. Expenditures shall be made only with prior approval of Norman L. Lovelace, Chief, Office of Pacific Island and Native American Programs, EPA Region 9.
- B. The funds deposited in this account shall be utilized only for this project. A quarterly accounting of the funds will be provided to USEPA, Samoa Packing, Inc., Star Kist Samoa, and Pago Marine, Inc. within 30 days after the close of the quarter.
- C. The Executive Secretary of the EQC shall be responsible for providing reports on the fund disbursement and followup.


V. GENERAL PROVISIONS

- A. This MOU does not supplement or replace other understandings or arrangements between USEPA and EQC, or other responsibilities and duties of USEPA or EQC.
- b. This MOU may be modified from time to time by mutual consent and officially endorsed by the Director, Water Management Division of USEPA, Region 9 and Chairman of EQC.
- c. This MOU shall be effective upon signature by the Director, Water Management Division, USEPA, Region 9, and Chairman of EQC and shall remain in effect until terminated.

IN WITNESS WHEREOF, each of the parties hereto has executed this MOU as of the day and year first written below:

WITNESS:


BY:


HARRY SERAYDARIAN, DIRECTOR
WATER MANAGEMENT DIVISION
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 9

DATE:

5/14/92

BY:


WILLIAM P. COLEMAN, CHAIRMAN
ENVIRONMENTAL QUALITY COMMISSION

DATE:

11-29-91

ENHANCED MARINE POLLUTION SURVEILLANCE PROJECT PLAN

Introduction

The U.S. Environmental Protection Agency (ASEPA) has collected \$13,000 in fines from Star Kist Samoa, Samoa Packing Co., and Pago Marine for violations of Ocean Dumping Permit conditions. These funds will be utilized to conduct the Enhanced Marine Pollution Surveillance Project (EMPSP). The roles and responsibilities of the USEPA, the Environmental Quality Commission (EQC), and accounting procedures are contained in a Memorandum of Understanding between these agencies. This project will be completed by the Marine Enforcement Division (MED) and the EQC. The following plan outlines the objectives of this project and how they will be met.

Objectives and Activities

1. Complete an increased number of routine and unplanned vessel, cannery facility, and wharf inspections for pollution violations.

Presently, the MED patrols the areas within Pago Pago Harbor most vulnerable for pollution incidents by vehicle and foot three times daily. This will be increased to twice per shift for a 3 month period depending upon weather and staffing. Search and rescue and emergency response may take priority. Records of observations from inspections and the number of tickets issued will be reviewed after the three month period to determine the effect of increased patrols on compliance. In addition, patrols will be completed at staggered times to prevent anticipation by potential violators.

2. Monitor on a more frequent basis vessels, facilities, and the wharf by boat spontaneously on a 24-hour basis for pollution violations.

Patrols via inflatable or a Boston Whaler are made once per day depending upon the staffing. These patrols will be increased to twice per day and at varied times depending upon weather and staffing. Search and rescue and emergency response may take priority. Surveillance after dark will be made a priority. This will continue for a 3 month period after which a review of records will be completed to determine the effectiveness of the surveillance.

3. Routinely and spontaneously monitor the ocean dumping of cannery sludge for compliance with Special Ocean Dumping Permit Nos. OD 90-01 and OD 90-02.

Presently the MED monitors ocean dumping of sludge on at least a weekly basis. This will be increased to two to three times weekly or a six month period. Monitoring will include: 1) checking on the correct dump site via land bearings; 2) determining whether the correct dumping pattern is followed; and 3) determining that sludge is only disposed of at the dump site. A follow up evaluation of site reports will be completed at 3 months and again at 6 months to determine the necessity of the increased monitoring and

compliance with permit conditions.

4. Provide staff support, equipment, and training to effectively carry out the increased functions.

The EQC will work with the MED to ensure that adequate staffing and equipment are available to complete the increased patrols, surveillance, and monitoring described above.

5. The EQC in conjunction the with the MED and the U.S. Coast Guard will completed a pamphlet which explains pollution and marine laws, penalties, and correct methods for disposal of vessel wastes. This will be translated through assistance of on island tuna vessel agents. Completion date for the pamphlet is 6 months from the start of the project. Distribution of the pamphlet will be provided by the MED, the Port Administration, and ship agents.
6. The EQC will review the outcome of increased monitoring after 3 months and provide recommendations to the MED on the feasibility and effectiveness of continuing the increased monitoring or whether additional monitoring is warranted.

PROJECT SCHEDULE

<u>Task</u>	<u>Responsible Party</u>	<u>Time for Completion</u>
1. 6 vehicle/foot patrols daily of vessels, canneries, and wharf	MED	3 months
2. 2 boat patrols daily	MED	3 months
3. 2 ocean dump site monitoring trips/week	MED	6 months
4. Review effectiveness of increased monitoring and provide recommendations	EQC, MED	3 mos.,6 mos.
5. Provide a report on fish processing waste disposal monitoring	EQC	6 months
6. Project report to USEPA	EQC	12 months
7. Complete multilingual pamphlet	EQC	6 months

Budget for Enhanced Marine Pollution Surveillance

1. Waterproof Binoculars (3 @ approx. \$325 each) \$1,000

The MED presently does not have any marine binoculars. Part of the increased surveillance/monitoring will be observations of possible violations of marine pollution laws which necessitate the ability to monitor these violations from afar, unobserved by the violators. Without binoculars, it would be very difficult, if not impossible, to conduct such surveillance.

2. 35 mm Camera/Telephoto Lens/Case \$1,500

The MED does not have any camera equipment necessary to carryout the additional surveillance duties for this project. The camera and telephoto lens are necessary to document violations of marine pollution laws for use as evidence in substantiating the violations. As in the justification for the binoculars, it is necessary to document these violations from afar, without being observed by the violators. Without this equipment and photo documentation, it will be more difficult to prove that violations occurred.

3. Marine and VHF Radio equipment \$3,500

The MED presently has VHF equipment installed on its boat; however, it needs additional communication equipment for the Zodiacs (large inflatable rafts) which will be utilized for surveillance in Pago Pago Harbor. Additionally, walkie-talkies are needed for each individual officer, as some of the enhanced surveillance and monitoring will be done on foot, along the pier and on the ships. Presently, each officer does not have his own walkie-talkie. Immediate communications are needed for all MED staff in order to coordinate surveillance activities, communicate potential violations and need for additional back-up if necessary.

4. MED Staffing \$6,000

This funding will be utilized for additional MED staffing to support the increased monitoring efforts.

5. Printing Costs for Marine Pollution Pamphlets \$1,000

- A. Development of 4-page pamphlet by ASEPA/MED on marine pollution laws and regulations, i.e.....explain generally which laws will be covered No cost

- B. Translation costs (Samoan, Chinese, Korean) \$ 200

- C. Printing costs (500 pamphlets/language @ \$200/set) \$ 800

NOVEMBER 25, 1991

Ace A. Tago
Director
Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

Dear Mr. Tago:

Enclosed is a check for \$6,000 to support the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance. This check is to be deposited in American Samoa Government Treasury Account No. 180, Oil Spill Trust Fund as agreed to in the Memorandum of Understanding Between the U.S. Environmental Protection Agency and the Environmental Quality Commission concerning the Samoa Packing Co. and Star Kist Samoa, Inc. Supplemental Environmental Project.

Sincerely,

Michael Macready
General Manager
Samoa Packing Co.

cc: Chairman, EQC
Executive Secretary, EQC



Recd EPA
APR 09 1992

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

CERTIFIED MAIL RETURN RECEIPT
RECEIPT REQUESTED P 057 506 639

March 9, 19

Michael P. Macready
General Manager
VCS Samoa Packing Company
P.O. Box 957
Pago Pago, American Samoa 96799

*originals
w/o orig. sign.*

Dear Mr. Macready:

Enclosed please find the consent agreement consent assessing civil penalty from VCS Samoa violation of the Marine Protection, Research and Conservation Act. Please review these documents, sign the consent agreement and return to me. After these documents are returned to me and signed by the appropriate U.S. EPA officials, a fully signed copy of the consent agreement and final order will be sent to you.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

James B. Branch

for

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

cc: Pati Faiiai, ASEPA
Sheila Wiegman, ASEPA
Christopher Sproul, EPA-ORC
Jim Cox, Van Camp Seafood Company, Inc.



APR 09 1992

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

CERTIFIED MAIL RETURN RECEIPT
RECEIPT REQUESTED P 057 506 639

March 9, 1992

Michael P. Macready
General Manager
VCS Samoa Packing Company
P.O. Box 957
Pago Pago, American Samoa 96799

Dear Mr. Macready:

Enclosed please find the consent agreement and final order on consent assessing civil penalty from VCS Samoa Packing Company for violation of the Marine Protection, Research and Sanctuaries Act. Please review these documents, sign the consent agreement and return to me. After these documents are returned to me and signed by the appropriate U.S. EPA officials, a fully signed copy of the consent agreement and final order will be sent to you.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

James B. Branch

for

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Christopher Sproul, EPA-ORC
Jim Cox, Van Camp Seafood Company, Inc.

Christopher A. Sproul
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105
(415) 744-1394

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of	)	Docket No. MPRSA-IX-91-01
)	
STARKIST SAMOA, INC., VCS	)	CONSENT AGREEMENT AND FINAL
SAMOA PACKING COMPANY, and	)	ORDER ON CONSENT ASSESSING
PAGO MARINE, INC.	)	ADMINISTRATIVE CIVIL PENALTY
)	
Respondents.)	
)	

CONSENT AGREEMENT

The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
REGION IX ("EPA Region IX" or "EPA") has issued an Administrative
Complaint for the Assessment of Civil Penalty In the Matter of
Starkist Samoa, Inc., VCS Samoa Packing Company, and Pago Marine,
Inc., Docket No. MPRSA-IX-91-01, pursuant to section 105(a) of

1 the Marine Protection, Research and Sanctuaries Act ("MPRSA")
2 alleging that the RESPONDENTS STARKIST SAMOA, INC. ("StarKist"),
3 VCS SAMOA PACKING COMPANY ("VCS"), and PAGO MARINE, INC. ("Pago
4 Marine") have violated the MPRSA. The EPA, StarKist, VCS and
5 Pago Marine having entered into this Consent Agreement,

6 NOW, THEREFORE, EPA, StarKist, VCS, and Pago Marine
7 HEREBY STIPULATE AS FOLLOWS:

8 1. Section 105(a) of the MPRSA authorizes EPA to
9 assess administratively a civil penalty against any person who
10 violates the Act or a permit issued pursuant to the Act of not
11 more than \$50,000 per violation. 33 U.S.C. § 1415(a). The
12 Administrator has delegated this authority to EPA Regional
13 Administrators. 40 C.F.R. § 220.4(b). The Regional
14 Administrator, Region IX has redelegated this authority to the
15 Director of the Water Management Division, Region IX.

16 2. Each day of a continuing violation, as well as the
17 unauthorized dumping from each vessel, constitutes a separate
18 MPRSA offense that may be subject to assessment of a penalty of
19 up to \$50,000. MPRSA § 105(c); 33 U.S.C. § 1415(c). In
20 assessing a penalty for any violations, EPA must take into
21 account the gravity of the violations, any prior violations, and
22 any good faith efforts to comply with the MPRSA after being
23 notified of violations. MPRSA § 105(a), 33 U.S.C. § 1415(a).

24 3. StarKist is a California corporation with its
25 principal place of business located in Pago Pago, American Samoa
26 and as such is a person within the meaning of the MPRSA. 33
27 U.S.C. §§ 1402(e) and 1411(a). StarKist is authorized to dispose

1 fish processing wastes into the Pacific Ocean near American Samoa
2 at a designated dump site by MPRSA Permit No. OD 90-01 Special.

3 4. VCS is a corporation with its principal place of
4 business located in Pago Pago, American Samoa and as such is a
5 person within the meaning of the MPRSA. 33 U.S.C. §§ 1402(e) and
6 1411(a). VCS is authorized to dispose fish processing wastes
7 into the Pacific Ocean near American Samoa at a designated dump
8 site by MPRSA Permit No. OD 90-02 Special.

9 5. Pago Marine is an American Samoa corporation with
10 its principal place of business located in Pago Pago, American
11 Samoa and as such is a person within the meaning of the MPRSA.
12 33 U.S.C. §§ 1402(e) and 1411(a). MPRSA Permits Nos. OD 90-01
13 and 90-02 Special ("the Permits") name Pago Marine as the waste
14 transporter of the fish processing wastes that StarKist and VCS
15 dump into the Pacific Ocean pursuant to the Permits. On all
16 disposal trips, Pago Marine disposes of commingled fish
17 processing wastes from StarKist and VCS.

18 6. EPA Region IX brought this action to assess civil
19 penalties for alleged violations committed by StarKist, VCS, and
20 Pago Marine of MPRSA section 101(a), 33 U.S.C. § 1411(a), and the
21 Permits issued pursuant to MPRSA section 102, 33 U.S.C. § 1412.
22 EPA alleged that StarKist, VCS, and Pago Marine violated the
23 MPRSA and the Permits by failing to adhere to Special Conditions
24 4.3 and 4.4 of the Permits.

25 7. Special Conditions 4.3 and 4.4 of the Permits
26 require that on all ocean dumping operations authorized under the
27 Permits, the disposal vessel must proceed to the center of the
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1 designated ocean dump site, determine the prevailing current, and
2 then proceed 1.1 nautical miles up current from the center of the
3 disposal site before commencing dumping. The intent of this
4 requirement is to maximize the dispersion of wastes within the
5 designated dump site and to ensure that currents do not carry the
6 wastes beyond the authorized dump site boundaries. EPA has
7 alleged that the respondents failed to conduct dumping operations
8 as required by Special Conditions 4.3 and 4.4 of the Permits on
9 each of 145 separate disposal vessel trips between August 7, 1990
10 and January 31, 1991.

11 8. For their violations alleged in the Complaint,
12 StarKist and VCS shall each pay to the United States a civil
13 penalty of \$2,000. In addition, StarKist and VCS shall each
14 contribute \$6,000 to the Supplemental Environmental Project
15 described in paragraph 10.

16 9. For its violations alleged in the Complaint, Pago
17 Marine shall pay to the United States a civil penalty of \$500 and
18 contribute \$1,000 to the Supplemental Environmental Project
19 described in paragraph 10.

20 10. The Supplemental Environmental Project referred to
21 in paragraphs 8 and 9 shall be the Enhanced Marine Pollution
22 Surveillance Project described in the attached Memorandum of
23 Understanding between EPA and the American Samoa Environmental
24 Quality Commission (Exhibit 1).

25 11. To satisfy their civil penalty liability under
26 this Consent Agreement, StarKist and VCS shall tender money
27 orders or certified checks in the amount of \$2,000, and Pago

1 Marine shall tender a money order or certified check in the
2 amount of \$500, made payable to the Treasurer, United States of
3 America. StarKist, VCS and Pago Marine shall tender these money
4 orders or checks via certified mail within thirty (30) days of
5 receiving service of this Consent Agreement and Final Order on
6 Consent to:

7 U.S. Environmental Protection Agency
8 Region IX
9 Regional Hearing Clerk
P.O. Box 360863M
Pittsburgh, PA 15251

10 and mail photocopies via certified mail of the money orders or
11 checks to:

12 Regional Hearing Clerk
13 U.S. Environmental Protection Agency
14 Region IX
75 Hawthorne Street
San Francisco, CA 94105

15 Christopher A. Sproul
16 Office of Regional Counsel, RC-2-4
17 U.S. Environmental Protection Agency
18 Region IX
75 Hawthorne Street
San Francisco, CA 94105

19 In accordance with the Debt Collection Act of 1982, interest
20 shall accrue on any unpaid penalties that are due and payable
21 under this paragraph at the interest rate published by the U.S.
22 Treasury. Such interest shall be tendered along with any late
23 penalty payments in the same manner as specified above.

24 12. To satisfy their obligation to contribute to the
25 Supplemental Environmental Project described in paragraph 10,
26 StarKist and VCS shall tender money orders or certified checks in
27 the amount of \$6,000, and Pago Marine shall tender a money order

1 or certified check in the amount of \$1,000, made payable to
2 Department of Treasury, American Samoa Government (Oil Spill
3 Trust Fund, Account No. 180). StarKist, VCS and Pago Marine
4 shall tender these money orders or checks along with a cover
5 letter modeled after the attached sample letter (Exhibit 2) via
6 certified mail within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent to:

8 Ace Tago
9 Director
10 Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

11 and mail photocopies via certified mail of these money orders or
12 checks to:

13 Regional Hearing Clerk
14 U.S. Environmental Protection Agency
Region IX
15 75 Hawthorne Street
San Francisco, CA 94105

16 Christopher A. Sproul
17 Office of Regional Counsel, RC-2-4
18 U.S. Environmental Protection Agency
Region IX
19 75 Hawthorne Street
San Francisco, CA 94105

20 13. StarKist, VCS and Pago Marine shall each pay to
21 the United States, upon written demand of EPA, a stipulated
22 penalty of \$150 for any violations of Special Conditions 4.3 and
23 4.4 of the Permits that occur after the execution of this Consent
24 Agreement until the expiration date of the Permits, July 30,
25 1993.

26 14. Notwithstanding the payment of any stipulated
27 penalty pursuant to the preceding paragraph, EPA shall retain any
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1 and all enforcement authority, including the right to seek civil
2 and/or criminal penalties or fines and civil injunctive relief,
3 that it would otherwise have against StarKist, VCS, or Pago
4 Marine for violations of the MPRSA occurring subsequent to the
5 execution of this Consent Agreement.

6 15. Within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent, StarKist and
8 VCS shall ensure that the Captain(s) of the disposal vessel(s)
9 used on any and all ocean dumping operations authorized by the
10 Permits has received all instruction necessary for navigating the
11 disposal vessel(s) in the manner required by Special Conditions
12 4.3 and 4.4. StarKist and VCS shall submit to EPA a certified
13 statement or statements from the Captain(s) indicating that the
14 Captain(s) have received this instruction and that the Captain(s)
15 understand the requirements of Special Conditions 4.3 and 4.4,
16 are capable of ensuring compliance with these conditions, and
17 will, to the best of their ability, ensure that the conditions
18 are met.

19 16. If new Captain(s) are hired to pilot disposal
20 vessel(s) while the Permits are in effect, StarKist and VCS
21 shall, before these Captain(s) are allowed to pilot disposal
22 vessel(s), provide instruction to these new Captain(s) and secure
23 certified statement(s) from them in the same manner as required
24 in the preceding paragraph for the current Captain(s).

25 17. The responsibility to meet the requirements of
26 paragraphs 15 and 16 shall be the joint obligation of StarKist
27 and VCS. If StarKist and VCS fail to complete the requirements
28

1 of paragraphs 15 and 16 by the deadlines established by those
2 paragraphs, then StarKist and VCS shall each pay to the United
3 States, upon written demand from EPA, a stipulated penalty of
4 \$100 per day until the requirements of paragraphs 15 and 16 are
5 met.

6 18. StarKist, VCS, and Pago Marine shall not deduct
7 the civil penalties or Supplemental Environmental Project
8 contributions provided for in paragraphs 8, 9, 11-13 and 17 from
9 their income for purposes of federal, state or local income tax.

10 19. Payment of the civil penalties and contributions
11 to the Supplemental Environmental Project referred to in
12 paragraphs 8, 9, and 11-12, together with adherence to all
13 additional requirements of this Consent Agreement and
14 accompanying Final Order on Consent, shall constitute full
15 satisfaction of any and all MPRSA civil penalty liability for
16 StarKist, VCS, and Pago Marine for the MPRSA violations alleged
17 in the Complaint.

18 20. Nothing in this Consent Agreement shall in any way
19 limit any right that EPA might otherwise have to seek injunctive
20 relief against StarKist, VCS and Pago Marine for violations of
21 any provision of federal law. Except as otherwise provided in
22 paragraph 19 of this Consent Agreement, EPA retains all legal
23 rights and remedies it would otherwise have against StarKist, VCS
24 and Pago Marine for violations of any provision of federal law.

25 21. StarKist, VCS, and Pago Marine neither admit nor
26 deny liability for any of the violations alleged by EPA in the
27 Complaint in this Matter.

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

Date

Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

Date

Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

4-1-92

Date

Michael P. MacReady
General Manager
VCS Samoa Packing Company

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Date

D.H. Silk
President
Pago Marine, Inc.

1 FINAL ORDER ON CONSENT

2 EPA Region IX, StarKist, VCS, and Pago Marine having entered
3 into the foregoing Consent Agreement,

4 IT IS HEREBY ORDERED THAT:

5 1. StarKist and VCS shall each pay a civil penalty of
6 \$2,000 and Pago Marine shall pay a civil penalty of \$500 to the
7 Treasurer of the United States of America as specified in the
8 Consent Agreement.

9 2. StarKist, VCS and Pago Marine shall adhere to all
10 further requirements of the Consent Agreement, including the
11 requirements to contribute to a Supplemental Environmental
12 Project, instruct disposal vessel Captain(s) on proper disposal
13 requirements and submit the required certified statements from
14 disposal vessel Captain(s), pay stipulated penalties for permit
15 and/or Consent Agreement violations upon written demand from EPA
16 unless successfully contested as provided for in the Consent
17 Agreement, and refrain from claiming the penalties or
18 contributions required under the Consent Agreement as deductions
19 from income for federal, state, or local income tax purposes.

20 3. This order constitutes full adjudication of the
21 Complaint against StarKist, VCS, and Pago Marine issued by EPA in
22 this Matter. This order shall remain in effect until MPRSA
23 Permits Nos. OD 90-01 and OD 90-02 Special expire on July 30,
24 1993.

25 _____
26 Date

25 _____
26 Steven W. Anderson
27 Regional Judicial Officer
28 U.S. Environmental Protection Agency,
Region IX



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, Ca. 94105-3901

CERTIFIED MAIL RETURN RECEIPT
RECEIPT REQUESTED P 057 506 646

March 9, 1992

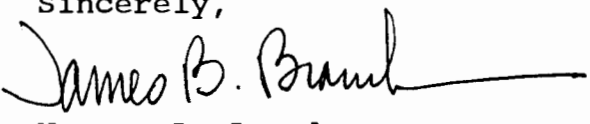
D. H. Silk
President
Pago Marine, Inc.
P.O. Box 4058
Pago Pago, American Samoa 96799

Dear Mr. Silk:

Enclosed please find the consent agreement and final order on consent assessing civil penalty from Pago Marine, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. Please review these documents, sign the consent agreement and return to me. After these documents are returned to me and signed by the appropriate U.S. EPA officials, a fully signed copy of the consent agreement and final order will be sent to you.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,


for Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Christopher Sproul, EPA-ORC
Jim Cox, Van Camp Seafood Company, Inc.

CERTIFIED MAIL RETURN RECEIPT
RECEIPT REQUESTED P 057 506 646

March 9, 1992

D. H. Silk
President
Pago Marine, Inc.
P.O. Box 4058
Pago Pago, American Samoa 96799

Dear Mr. Silk:

Enclosed please find the consent agreement and final order on consent assessing civil penalty from Pago Marine, Inc. for violation of the Marine Protection, Research and Sanctuaries Act. Please review these documents, sign the consent agreement and return to me. After these documents are returned to me and signed by the appropriate U.S. EPA officials, a fully signed copy of the consent agreement and final order will be sent to you.

Should you have any questions regarding this matter, please contact Pat Young, American Samoa Program Manager at (415) 744-1591, or you may call Christopher Sproul, Assistant Regional Counsel, at (415) 744-1394.

Sincerely,

Norman L. Lovelace
Chief, Office of Pacific Island
and Native American Programs

cc: Pati Faiai, ASEPA
Sheila Wiegman, ASEPA
Christopher Sproul, EPA-ORC
Jim Cox, Van Camp Seafood Company, Inc.

SYMBOL	E-4	E-4				
SURNAME	Norman L. Lovelace	Christopher Sproul				
DATE	3/9/92	3/9/92				
U.S. EPA CONCURRENCES						OFFICIAL FILE COPY

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to: D.H. Silk Pago Marine, Inc. P.O. Box 4508 Pago Pago, AS 96799	4. Article Number P 057 506 646
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
	Always obtain signature of addressee or agent and <u>DATE DELIVERED</u> .
5. Signature — Address X	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature — Agent X <i>[Signature]</i>	
7. Date of Delivery	

PS Form 3811, Mar. 1988

★ U.S.G.P.O. 1988-212-865

DOMESTIC RETURN RECEIPT

P 057 506 646

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED

NOT FOR INTERNATIONAL MAIL

(See Reverse)

Sent to	D.H. Silk
Street and No.	P.O. Box 4058
P.O., State and ZIP Code	Pago Pago, AS 96799
Postage	\$
Certified Fee	
Special Delivery Fee	
Registered Delivery Fee	
Return Receipt showing to whom, date, and Date Delivered	
Return Receipt showing to whom, date, and Address of Delivery	
TOTAL Postage and Fees	\$
Postmark or Date	

MAR 30 1992 *db*

PAGO MARINE INC

P.O. Box 4058,
Pago Pago, AS 96799.

Phones: (684) 633 1069
(684) 633 5576
Fax: (684) 633 5898

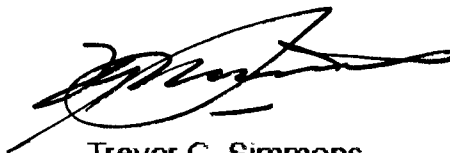
March 20th 1992

Mr N.L. Lovelace,
Chief, Office of Pacific Island
and Native American Programs,
USEPA Region IX,
75 Hawthorne St.,
San Francisco, Ca. 94105-3901.

Dear Sir,

Enclosed is the signed Consent Agreement, as requested.

Sincerely,



Trevor C. Simmons,
Secretary/Treasurer,
Pago Marine Inc.

1 Christopher A. Sproul
2 Assistant Regional Counsel
3 U.S. Environmental Protection Agency
4 Region IX
5 75 Hawthorne Street
6 San Francisco, California 94105
7 (415) 744-1394
8

9 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

10 REGION IX

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12
13
14
15 In the matter of) Docket No. MPRSA-IX-91-01
16)
17 STARKIST SAMOA, INC., VCS) CONSENT AGREEMENT AND FINAL
18 SAMOA PACKING COMPANY, and) ORDER ON CONSENT ASSESSING
19 PAGO MARINE, INC.) ADMINISTRATIVE CIVIL PENALTY
20 Respondents.)
21

22 CONSENT AGREEMENT

23 The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
24 REGION IX ("EPA Region IX" or "EPA") has issued an Administrative
25 Complaint for the Assessment of Civil Penalty In the Matter of
26 Starkist Samoa, Inc., VCS Samoa Packing Company, and Pago Marine,
27 Inc., Docket No. MPRSA-IX-91-01, pursuant to section 105(a) of

1 the Marine Protection, Research and Sanctuaries Act ("MPRSA")
2 alleging that the RESPONDENTS STARKIST SAMOA, INC. ("StarKist"),
3 VCS SAMOA PACKING COMPANY ("VCS"), and PAGO MARINE, INC. ("Pago
4 Marine") have violated the MPRSA. The EPA, StarKist, VCS and
5 Pago Marine having entered into this Consent Agreement,

6 NOW, THEREFORE, EPA, StarKist, VCS, and Pago Marine
7 HEREBY STIPULATE AS FOLLOWS:

8 1. Section 105(a) of the MPRSA authorizes EPA to
9 assess administratively a civil penalty against any person who
10 violates the Act or a permit issued pursuant to the Act of not
11 more than \$50,000 per violation. 33 U.S.C. § 1415(a). The
12 Administrator has delegated this authority to EPA Regional
13 Administrators. 40 C.F.R. § 220.4(b). The Regional
14 Administrator, Region IX has redelegated this authority to the
15 Director of the Water Management Division, Region IX.

16 2. Each day of a continuing violation, as well as the
17 unauthorized dumping from each vessel, constitutes a separate
18 MPRSA offense that may be subject to assessment of a penalty of
19 up to \$50,000. MPRSA § 105(c); 33 U.S.C. § 1415(c). In
20 assessing a penalty for any violations, EPA must take into
21 account the gravity of the violations, any prior violations, and
22 any good faith efforts to comply with the MPRSA after being
23 notified of violations. MPRSA § 105(a), 33 U.S.C. § 1415(a).

24 3. StarKist is a California corporation with its
25 principal place of business located in Pago Pago, American Samoa
26 and as such is a person within the meaning of the MPRSA. 33
27 U.S.C. §§ 1402(e) and 1411(a). StarKist is authorized to dispose

1 fish processing wastes into the Pacific Ocean near American Samoa
2 at a designated dump site by MPRSA Permit No. OD 90-01 Special.

3 4. VCS is a corporation with its principal place of
4 business located in Pago Pago, American Samoa and as such is a
5 person within the meaning of the MPRSA. 33 U.S.C. §§ 1402(e) and
6 1411(a). VCS is authorized to dispose fish processing wastes
7 into the Pacific Ocean near American Samoa at a designated dump
8 site by MPRSA Permit No. OD 90-02 Special.

9 5. Pago Marine is an American Samoa corporation with
10 its principal place of business located in Pago Pago, American
11 Samoa and as such is a person within the meaning of the MPRSA.
12 33 U.S.C. §§ 1402(e) and 1411(a). MPRSA Permits Nos. OD 90-01
13 and 90-02 Special ("the Permits") name Pago Marine as the waste
14 transporter of the fish processing wastes that StarKist and VCS
15 dump into the Pacific Ocean pursuant to the Permits. On all
16 disposal trips, Pago Marine disposes of commingled fish
17 processing wastes from StarKist and VCS.

18 6. EPA Region IX brought this action to assess civil
19 penalties for alleged violations committed by StarKist, VCS, and
20 Pago Marine of MPRSA section 101(a), 33 U.S.C. § 1411(a), and the
21 Permits issued pursuant to MPRSA section 102, 33 U.S.C. § 1412.
22 EPA alleged that StarKist, VCS, and Pago Marine violated the
23 MPRSA and the Permits by failing to adhere to Special Conditions
24 4.3 and 4.4 of the Permits.

25 7. Special Conditions 4.3 and 4.4 of the Permits
26 require that on all ocean dumping operations authorized under the
27 Permits, the disposal vessel must proceed to the center of the

1 designated ocean dump site, determine the prevailing current, and
2 then proceed 1.1 nautical miles up current from the center of the
3 disposal site before commencing dumping. The intent of this
4 requirement is to maximize the dispersion of wastes within the
5 designated dump site and to ensure that currents do not carry the
6 wastes beyond the authorized dump site boundaries. EPA has
7 alleged that the respondents failed to conduct dumping operations
8 as required by Special Conditions 4.3 and 4.4 of the Permits on
9 each of 145 separate disposal vessel trips between August 7, 1990
10 and January 31, 1991.

11 8. For their violations alleged in the Complaint,
12 StarKist and VCS shall each pay to the United States a civil
13 penalty of \$2,000. In addition, StarKist and VCS shall each
14 contribute \$6,000 to the Supplemental Environmental Project
15 described in paragraph 10.

16 9. For its violations alleged in the Complaint, Pago
17 Marine shall pay to the United States a civil penalty of \$500 and
18 contribute \$1,000 to the Supplemental Environmental Project
19 described in paragraph 10.

20 10. The Supplemental Environmental Project referred to
21 in paragraphs 8 and 9 shall be the Enhanced Marine Pollution
22 Surveillance Project described in the attached Memorandum of
23 Understanding between EPA and the American Samoa Environmental
24 Quality Commission (Exhibit 1).

25 11. To satisfy their civil penalty liability under
26 this Consent Agreement, StarKist and VCS shall tender money
27 orders or certified checks in the amount of \$2,000, and Pago
28

1 Marine shall tender a money order or certified check in the
2 amount of \$500, made payable to the Treasurer, United States of
3 America. StarKist, VCS and Pago Marine shall tender these money
4 orders or checks via certified mail within thirty (30) days of
5 receiving service of this Consent Agreement and Final Order on
6 Consent to:

7 U.S. Environmental Protection Agency
8 Region IX
9 Regional Hearing Clerk
P.O. Box 360863M
Pittsburgh, PA 15251

10 and mail photocopies via certified mail of the money orders or
11 checks to:

12 Regional Hearing Clerk
13 U.S. Environmental Protection Agency
14 Region IX
75 Hawthorne Street
San Francisco, CA 94105

15 Christopher A. Sproul
16 Office of Regional Counsel, RC-2-4
17 U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
18 San Francisco, CA 94105

19 In accordance with the Debt Collection Act of 1982, interest
20 shall accrue on any unpaid penalties that are due and payable
21 under this paragraph at the interest rate published by the U.S.
22 Treasury. Such interest shall be tendered along with any late
23 penalty payments in the same manner as specified above.

24 12. To satisfy their obligation to contribute to the
25 Supplemental Environmental Project described in paragraph 10,
26 StarKist and VCS shall tender money orders or certified checks in
27 the amount of \$6,000, and Pago Marine shall tender a money order

1 or certified check in the amount of \$1,000, made payable to
2 Department of Treasury, American Samoa Government (Oil Spill
3 Trust Fund, Account No. 180). StarKist, VCS and Pago Marine
4 shall tender these money orders or checks along with a cover
5 letter modeled after the attached sample letter (Exhibit 2) via
6 certified mail within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent to:

8 Ace Tago
9 Director
10 Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

11 and mail photocopies via certified mail of these money orders or
12 checks to:

13 Regional Hearing Clerk
14 U.S. Environmental Protection Agency
Region IX
15 75 Hawthorne Street
San Francisco, CA 94105

16 Christopher A. Sproul
17 Office of Regional Counsel, RC-2-4
18 U.S. Environmental Protection Agency
Region IX
19 75 Hawthorne Street
San Francisco, CA 94105

20 13. StarKist, VCS and Pago Marine shall each pay to
21 the United States, upon written demand of EPA, a stipulated
22 penalty of \$150 for any violations of Special Conditions 4.3 and
23 4.4 of the Permits that occur after the execution of this Consent
24 Agreement until the expiration date of the Permits, July 30,
25 1993.

26 14. Notwithstanding the payment of any stipulated
27 penalty pursuant to the preceding paragraph, EPA shall retain any
28

1 and all enforcement authority, including the right to seek civil
2 and/or criminal penalties or fines and civil injunctive relief,
3 that it would otherwise have against StarKist, VCS, or Pago
4 Marine for violations of the MPRSA occurring subsequent to the
5 execution of this Consent Agreement.

6 15. Within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent, StarKist and
8 VCS shall ensure that the Captain(s) of the disposal vessel(s)
9 used on any and all ocean dumping operations authorized by the
10 Permits has received all instruction necessary for navigating the
11 disposal vessel(s) in the manner required by Special Conditions
12 4.3 and 4.4. StarKist and VCS shall submit to EPA a certified
13 statement or statements from the Captain(s) indicating that the
14 Captain(s) have received this instruction and that the Captain(s)
15 understand the requirements of Special Conditions 4.3 and 4.4,
16 are capable of ensuring compliance with these conditions, and
17 will, to the best of their ability, ensure that the conditions
18 are met.

19 16. If new Captain(s) are hired to pilot disposal
20 vessel(s) while the Permits are in effect, StarKist and VCS
21 shall, before these Captain(s) are allowed to pilot disposal
22 vessel(s), provide instruction to these new Captain(s) and secure
23 certified statement(s) from them in the same manner as required
24 in the preceding paragraph for the current Captain(s).

25 17. The responsibility to meet the requirements of
26 paragraphs 15 and 16 shall be the joint obligation of StarKist
27 and VCS. If StarKist and VCS fail to complete the requirements
28

1 of paragraphs 15 and 16 by the deadlines established by those
2 paragraphs, then StarKist and VCS shall each pay to the United
3 States, upon written demand from EPA, a stipulated penalty of
4 \$100 per day until the requirements of paragraphs 15 and 16 are
5 met.

6 18. StarKist, VCS, and Pago Marine shall not deduct
7 the civil penalties or Supplemental Environmental Project
8 contributions provided for in paragraphs 8, 9, 11-13 and 17 from
9 their income for purposes of federal, state or local income tax.

10 19. Payment of the civil penalties and contributions
11 to the Supplemental Environmental Project referred to in
12 paragraphs 8, 9, and 11-12, together with adherence to all
13 additional requirements of this Consent Agreement and
14 accompanying Final Order on Consent, shall constitute full
15 satisfaction of any and all MPRSA civil penalty liability for
16 StarKist, VCS, and Pago Marine for the MPRSA violations alleged
17 in the Complaint.

18 20. Nothing in this Consent Agreement shall in any way
19 limit any right that EPA might otherwise have to seek injunctive
20 relief against StarKist, VCS and Pago Marine for violations of
21 any provision of federal law. Except as otherwise provided in
22 paragraph 19 of this Consent Agreement, EPA retains all legal
23 rights and remedies it would otherwise have against StarKist, VCS
24 and Pago Marine for violations of any provision of federal law.

25 21. StarKist, VCS, and Pago Marine neither admit nor
26 deny liability for any of the violations alleged by EPA in the
27 Complaint in this Matter.

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

Date

Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

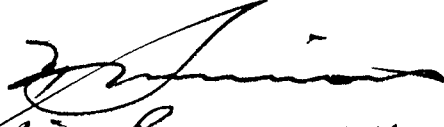
Date

Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

Date

Michael P. MacReady
General Manager
VCS Samoa Packing Company

1 3-20-92
2 Date
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With Power of Attorney for:
D.H. Silk
President
Pago Marine, Inc.

1 FINAL ORDER ON CONSENT

2 EPA Region IX, StarKist, VCS, and Pago Marine having entered
3 into the foregoing Consent Agreement,

4 IT IS HEREBY ORDERED THAT:

5 1. StarKist and VCS shall each pay a civil penalty of
6 \$2,000 and Pago Marine shall pay a civil penalty of \$500 to the
7 Treasurer of the United States of America as specified in the
8 Consent Agreement.

9 2. StarKist, VCS and Pago Marine shall adhere to all
10 further requirements of the Consent Agreement, including the
11 requirements to contribute to a Supplemental Environmental
12 Project, instruct disposal vessel Captain(s) on proper disposal
13 requirements and submit the required certified statements from
14 disposal vessel Captain(s), pay stipulated penalties for permit
15 and/or Consent Agreement violations upon written demand from EPA
16 unless successfully contested as provided for in the Consent
17 Agreement, and refrain from claiming the penalties or
18 contributions required under the Consent Agreement as deductions
19 from income for federal, state, or local income tax purposes.

20 3. This order constitutes full adjudication of the
21 Complaint against StarKist, VCS, and Pago Marine issued by EPA in
22 this Matter. This order shall remain in effect until MPRSA
23 Permits Nos. OD 90-01 and OD 90-02 Special expire on July 30,
24 1993.

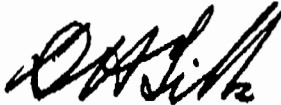
25 _____
26 Date

26 Steven W. Anderson
27 Regional Judicial Officer
28 U.S. Environmental Protection Agency,
Region IX

BE IT KNOWN TO ALL MEN THAT BY THESE PRESENT: I, Donald Herbert Silk President of Pago Marine Inc, a company duly Incorporated in and subject to the law of American Samoa do hereby appoint Trevor Charles Simmons of Rarotonga, Cook Islands, Financial Controller of Silk & Boyd Ltd, to be my true and lawful attorney to act as my Agent in all matters relating to the operation of Pago Marine Inc.

This attorney is to remain in force until cancelled by the company.

Dated this 25th November 1991.

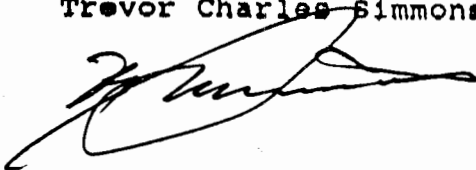


Donald Herbert Silk

Witnessed by:
Brett Porter



Signature of:
Trevor Charles Simmons



StarKist[★] Samoa, Inc.

April 8, 1992

Christopher A. Sproul
Assistant Regional Counsel
U. S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105


Dear Sir,

Re Docket No. MPRSA-1X-91-01

Attached is the Signed Consent Agreement and Final Order on Consent Assessing Administrative Civil Penalty in the matter of StarKist Samoa Inc., VCS Samoa Packing, and Pago Marine Inc.

Sincerely,

STARKIST SAMOA, INC.



MAURICE W. CALLAGHAN
General Manager

MWC:tl

Attachment

cc: Norman L. Lovelace

Christopher A. Sproul
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
San Francisco, California 94105
(415) 744-1394

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX

In the matter of	)	Docket No. MPRSA-IX-91-01
)	
STARKIST SAMOA, INC., VCS	)	CONSENT AGREEMENT AND FINAL
SAMOA PACKING COMPANY, and	)	ORDER ON CONSENT ASSESSING
PAGO MARINE, INC.	)	ADMINISTRATIVE CIVIL PENALTY
)	
Respondents.)	

CONSENT AGREEMENT

The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
REGION IX ("EPA Region IX" or "EPA") has issued an Administrative
Complaint for the Assessment of Civil Penalty In the Matter of
Starkist Samoa, Inc., VCS Samoa Packing Company, and Pago Marine,
Inc., Docket No. MPRSA-IX-91-01, pursuant to section 105(a) of

1 the Marine Protection, Research and Sanctuaries Act ("MPRSA")
2 alleging that the RESPONDENTS STARKIST SAMOA, INC. ("StarKist"),
3 VCS SAMOA PACKING COMPANY ("VCS"), and PAGO MARINE, INC. ("Pago
4 Marine") have violated the MPRSA. The EPA, StarKist, VCS and
5 Pago Marine having entered into this Consent Agreement,

6 NOW, THEREFORE, EPA, StarKist, VCS, and Pago Marine
7 HEREBY STIPULATE AS FOLLOWS:

8 1. Section 105(a) of the MPRSA authorizes EPA to
9 assess administratively a civil penalty against any person who
10 violates the Act or a permit issued pursuant to the Act of not
11 more than \$50,000 per violation. 33 U.S.C. § 1415(a). The
12 Administrator has delegated this authority to EPA Regional
13 Administrators. 40 C.F.R. § 220.4(b). The Regional
14 Administrator, Region IX has redelegated this authority to the
15 Director of the Water Management Division, Region IX.

16 2. Each day of a continuing violation, as well as the
17 unauthorized dumping from each vessel, constitutes a separate
18 MPRSA offense that may be subject to assessment of a penalty of
19 up to \$50,000. MPRSA § 105(c); 33 U.S.C. § 1415(c). In
20 assessing a penalty for any violations, EPA must take into
21 account the gravity of the violations, any prior violations, and
22 any good faith efforts to comply with the MPRSA after being
23 notified of violations. MPRSA § 105(a), 33 U.S.C. § 1415(a).

24 3. StarKist is a California corporation with its
25 principal place of business located in Pago Pago, American Samoa
26 and as such is a person within the meaning of the MPRSA. 33
27 U.S.C. §§ 1402(e) and 1411(a). StarKist is authorized to dispose

1 fish processing wastes into the Pacific Ocean near American Samoa
2 at a designated dump site by MPRSA Permit No. OD 90-01 Special.

3 4. VCS is a corporation with its principal place of
4 business located in Pago Pago, American Samoa and as such is a
5 person within the meaning of the MPRSA. 33 U.S.C. §§ 1402(e) and
6 1411(a). VCS is authorized to dispose fish processing wastes
7 into the Pacific Ocean near American Samoa at a designated dump
8 site by MPRSA Permit No. OD 90-02 Special.

9 5. Pago Marine is an American Samoa corporation with
10 its principal place of business located in Pago Pago, American
11 Samoa and as such is a person within the meaning of the MPRSA.
12 33 U.S.C. §§ 1402(e) and 1411(a). MPRSA Permits Nos. OD 90-01
13 and 90-02 Special ("the Permits") name Pago Marine as the waste
14 transporter of the fish processing wastes that StarKist and VCS
15 dump into the Pacific Ocean pursuant to the Permits. On all
16 disposal trips, Pago Marine disposes of commingled fish
17 processing wastes from StarKist and VCS.

18 6. EPA Region IX brought this action to assess civil
19 penalties for alleged violations committed by StarKist, VCS, and
20 Pago Marine of MPRSA section 101(a), 33 U.S.C. § 1411(a), and the
21 Permits issued pursuant to MPRSA section 102, 33 U.S.C. § 1412.
22 EPA alleged that StarKist, VCS, and Pago Marine violated the
23 MPRSA and the Permits by failing to adhere to Special Conditions
24 4.3 and 4.4 of the Permits.

25 7. Special Conditions 4.3 and 4.4 of the Permits
26 require that on all ocean dumping operations authorized under the
27 Permits, the disposal vessel must proceed to the center of the
28

1 designated ocean dump site, determine the prevailing current, and
2 then proceed 1.1 nautical miles up current from the center of the
3 disposal site before commencing dumping. The intent of this
4 requirement is to maximize the dispersion of wastes within the
5 designated dump site and to ensure that currents do not carry the
6 wastes beyond the authorized dump site boundaries. EPA has
7 alleged that the respondents failed to conduct dumping operations
8 as required by Special Conditions 4.3 and 4.4 of the Permits on
9 each of 145 separate disposal vessel trips between August 7, 1990
10 and January 31, 1991.

11 8. For their violations alleged in the Complaint,
12 StarKist and VCS shall each pay to the United States a civil
13 penalty of \$2,000. In addition, StarKist and VCS shall each
14 contribute \$6,000 to the Supplemental Environmental Project
15 described in paragraph 10.

16 9. For its violations alleged in the Complaint, Pago
17 Marine shall pay to the United States a civil penalty of \$500 and
18 contribute \$1,000 to the Supplemental Environmental Project
19 described in paragraph 10.

20 10. The Supplemental Environmental Project referred to
21 in paragraphs 8 and 9 shall be the Enhanced Marine Pollution
22 Surveillance Project described in the attached Memorandum of
23 Understanding between EPA and the American Samoa Environmental
24 Quality Commission (Exhibit 1).

25 11. To satisfy their civil penalty liability under
26 this Consent Agreement, StarKist and VCS shall tender money
27 orders or certified checks in the amount of \$2,000, and Pago
28

1 Marine shall tender a money order or certified check in the
2 amount of \$500, made payable to the Treasurer, United States of
3 America. StarKist, VCS and Pago Marine shall tender these money
4 orders or checks via certified mail within thirty (30) days of
5 receiving service of this Consent Agreement and Final Order on
6 Consent to:

7 U.S. Environmental Protection Agency
8 Region IX
9 Regional Hearing Clerk
P.O. Box 360863M
Pittsburgh, PA 15251

10 and mail photocopies via certified mail of the money orders or
11 checks to:

12 Regional Hearing Clerk
13 U.S. Environmental Protection Agency
14 Region IX
75 Hawthorne Street
San Francisco, CA 94105

15 Christopher A. Sproul
16 Office of Regional Counsel, RC-2-4
17 U.S. Environmental Protection Agency
Region IX
75 Hawthorne Street
18 San Francisco, CA 94105

19 In accordance with the Debt Collection Act of 1982, interest
20 shall accrue on any unpaid penalties that are due and payable
21 under this paragraph at the interest rate published by the U.S.
22 Treasury. Such interest shall be tendered along with any late
23 penalty payments in the same manner as specified above.

24 12. To satisfy their obligation to contribute to the
25 Supplemental Environmental Project described in paragraph 10,
26 StarKist and VCS shall tender money orders or certified checks in
27 the amount of \$6,000, and Pago Marine shall tender a money order

1 or certified check in the amount of \$1,000, made payable to
2 Department of Treasury, American Samoa Government (Oil Spill
3 Trust Fund, Account No. 180). StarKist, VCS and Pago Marine
4 shall tender these money orders or checks along with a cover
5 letter modeled after the attached sample letter (Exhibit 2) via
6 certified mail within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent to:

8 Ace Tago
9 Director
10 Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

11 and mail photocopies via certified mail of these money orders or
12 checks to:

13 Regional Hearing Clerk
14 U.S. Environmental Protection Agency
Region IX
15 75 Hawthorne Street
San Francisco, CA 94105

16 Christopher A. Sproul
17 Office of Regional Counsel, RC-2-4
18 U.S. Environmental Protection Agency
Region IX
19 75 Hawthorne Street
San Francisco, CA 94105

20 13. StarKist, VCS and Pago Marine shall each pay to
21 the United States, upon written demand of EPA, a stipulated
22 penalty of \$150 for any violations of Special Conditions 4.3 and
23 4.4 of the Permits that occur after the execution of this Consent
24 Agreement until the expiration date of the Permits, July 30,
25 1993.

26 14. Notwithstanding the payment of any stipulated
27 penalty pursuant to the preceding paragraph, EPA shall retain any
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1 and all enforcement authority, including the right to seek civil
2 and/or criminal penalties or fines and civil injunctive relief,
3 that it would otherwise have against StarKist, VCS, or Pago
4 Marine for violations of the MPRSA occurring subsequent to the
5 execution of this Consent Agreement.

6 15. Within thirty (30) days of receiving service of
7 this Consent Agreement and Final Order on Consent, StarKist and
8 VCS shall ensure that the Captain(s) of the disposal vessel(s)
9 used on any and all ocean dumping operations authorized by the
10 Permits has received all instruction necessary for navigating the
11 disposal vessel(s) in the manner required by Special Conditions
12 4.3 and 4.4. StarKist and VCS shall submit to EPA a certified
13 statement or statements from the Captain(s) indicating that the
14 Captain(s) have received this instruction and that the Captain(s)
15 understand the requirements of Special Conditions 4.3 and 4.4,
16 are capable of ensuring compliance with these conditions, and
17 will, to the best of their ability, ensure that the conditions
18 are met.

19 16. If new Captain(s) are hired to pilot disposal
20 vessel(s) while the Permits are in effect, StarKist and VCS
21 shall, before these Captain(s) are allowed to pilot disposal
22 vessel(s), provide instruction to these new Captain(s) and secure
23 certified statement(s) from them in the same manner as required
24 in the preceding paragraph for the current Captain(s).

25 17. The responsibility to meet the requirements of
26 paragraphs 15 and 16 shall be the joint obligation of StarKist
27 and VCS. If StarKist and VCS fail to complete the requirements
28

1 of paragraphs 15 and 16 by the deadlines established by those
2 paragraphs, then StarKist and VCS shall each pay to the United
3 States, upon written demand from EPA, a stipulated penalty of
4 \$100 per day until the requirements of paragraphs 15 and 16 are
5 met.

6 18. StarKist, VCS, and Pago Marine shall not deduct
7 the civil penalties or Supplemental Environmental Project
8 contributions provided for in paragraphs 8, 9, 11-13 and 17 from
9 their income for purposes of federal, state or local income tax.

10 19. Payment of the civil penalties and contributions
11 to the Supplemental Environmental Project referred to in
12 paragraphs 8, 9, and 11-12, together with adherence to all
13 additional requirements of this Consent Agreement and
14 accompanying Final Order on Consent, shall constitute full
15 satisfaction of any and all MPRSA civil penalty liability for
16 StarKist, VCS, and Pago Marine for the MPRSA violations alleged
17 in the Complaint.

18 20. Nothing in this Consent Agreement shall in any way
19 limit any right that EPA might otherwise have to seek injunctive
20 relief against StarKist, VCS and Pago Marine for violations of
21 any provision of federal law. Except as otherwise provided in
22 paragraph 19 of this Consent Agreement, EPA retains all legal
23 rights and remedies it would otherwise have against StarKist, VCS
24 and Pago Marine for violations of any provision of federal law.

25 21. StarKist, VCS, and Pago Marine neither admit nor
26 deny liability for any of the violations alleged by EPA in the
27 Complaint in this Matter.

22. In entering this Consent Agreement, EPA, StarKist, VCS, and Pago Marine hereby waive any and all rights to an appeal of the Order on Consent to be entered in this Matter.

23. If StarKist, VCS, or Pago Marine disputes any claim made by EPA for stipulated penalties pursuant to this Consent Agreement, StarKist, VCS or Pago Marine shall state this in writing to EPA and request a hearing before EPA Region IX's Regional Judicial Officer within thirty (30) days of receiving EPA's demand for stipulated penalties. Failure to adhere to this requirement shall constitute waiver of any right to contest or appeal stipulated penalty liability. The decision made by the Regional Judicial Officer following a hearing on any stipulated penalties dispute shall be binding and shall not be appealed by EPA, StarKist, VCS or Pago Marine to any administrative or judicial authority.

FOR THE CONSENTING PARTIES:

Date

4.8.92

Date

Harry Seraydarian
Director, Water Management Division
U.S. Environmental Protection Agency,
Region IX

Maurice W. Callaghan
President and General Manager
StarKist Samoa, Inc.

Date

Michael P. MacReady
General Manager
VCS Samoa Packing Company

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Date

D.H. Silk
President
Pago Marine, Inc.

1 FINAL ORDER ON CONSENT

2 EPA Region IX, StarKist, VCS, and Pago Marine having entered
3 into the foregoing Consent Agreement,

4 IT IS HEREBY ORDERED THAT:

5 1. StarKist and VCS shall each pay a civil penalty of
6 \$2,000 and Pago Marine shall pay a civil penalty of \$500 to the
7 Treasurer of the United States of America as specified in the
8 Consent Agreement.

9 2. StarKist, VCS and Pago Marine shall adhere to all
10 further requirements of the Consent Agreement, including the
11 requirements to contribute to a Supplemental Environmental
12 Project, instruct disposal vessel Captain(s) on proper disposal
13 requirements and submit the required certified statements from
14 disposal vessel Captain(s), pay stipulated penalties for permit
15 and/or Consent Agreement violations upon written demand from EPA
16 unless successfully contested as provided for in the Consent
17 Agreement, and refrain from claiming the penalties or
18 contributions required under the Consent Agreement as deductions
19 from income for federal, state, or local income tax purposes.

20 3. This order constitutes full adjudication of the
21 Complaint against StarKist, VCS, and Pago Marine issued by EPA in
22 this Matter. This order shall remain in effect until MPRSA
23 Permits Nos. OD 90-01 and OD 90-02 Special expire on July 30,
24 1993.

25 _____
26 Date

25 _____
26 Steven W. Anderson
27 Regional Judicial Officer
28 U.S. Environmental Protection Agency,
Region IX

NOVEMBER 25, 1991

Ace A. Tago
Director
Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

Dear Mr. Tago:

Enclosed is a check for \$6,000 to support the Supplemental Environmental Project, Enhanced Marine Pollution Surveillance. This check is to be deposited in American Samoa Government Treasury Account No. 180, Oil Spill Trust Fund as agreed to in the Memorandum of Understanding Between the U.S. Environmental Protection Agency and the Environmental Quality Commission concerning the Samoa Packing Co. and Star Kist Samoa, Inc. Supplemental Environmental Project.

Sincerely,

Michael Macready
General Manager
Samoa Packing Co.

cc: Chairman, EQC
Executive Secretary, EQC

NOVEMBER 25, 1991

Ace A. Tago
Director
Department of Treasury
American Samoa Government
Pago Pago, American Samoa 96799

Dear Mr. Tago:

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Sincerely,

Michael Macready
General Manager
Samoa Packing Co.

cc: Chairman, EQC
Executive Secretary, EQC